

Indirect expenditures of the Federal Government: relevance for Tax Policy management, recent evolution and perspectives for improving governance

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SUMMARY

This paper aims to highlight the dual structure of financing public policies of the Federal Government and, in this context, its relevance to the management of tax policy. In this scenario, it gives particular emphasis to the Federal Government's indirect spending, consisting of tax expenditures and credit and financial subsidies from the Federal Government, as a complementary modality to direct spending, available to the public manager to guide the financing of public policies. The analysis of the normative, institutional, and procedural framework of direct and indirect federal expenditures aims to demonstrate the existence of significant asymmetries in the conformation of these instruments of public management. Direct expenditures contain consolidated rites and processes, while indirect expenditures present gaps in the normative, procedural and institutional order, which brings together elements in opposition to the effectiveness of the policies thus outlined. The records of the international experience are intended to undertake good practices in the management of these expenditures and then endogenize procedures and institutional practices that contribute to the improvement of the policies thus outlined. Considering the diagnosis of the governance parameters of the Federal Government's indirect spending, and related gaps, institutional actions and guidelines are highlighted in favor of defining a framework of leadership, strategy and control to guide these expenditures. Based on the analysis, we postulate normative changes and institutional and procedural guidelines to contribute to increased transparency, social control, *accountability* and greater effectiveness of public policies guided by the Federal Government's indirect spending.

Keywords: indirect expenditures, tax expenditures, credit subsidies, financial subsidies, governance.

JEL code: H2, H3 and H5.

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1 - Introduction

The analysis of the quality of public spending and of consistent standards for government intervention has been the subject of extensive literature in the field of public finance. It is worth highlighting the relevance of research that investigates the incentive structure required to improve institutions, in line with relevant integrity parameters, to promote greater efficiency and equity in the allocation of scarce public resources and thus optimize government action.

Under the same prism, another form of approach refers to the analysis of the legal framework and the structure of institutional processes, to provide transparency to society about the arrangements in place. In fact, there are organizations that present a technical, bureaucratic, and operational framework comparable to the best public management standards. However, there are asymmetries and gaps in institutional processes within the public sector that must be thoroughly analyzed, with a view to adapting them to the effective resolution of problems and to the dynamics of the profile of society's demands, assuming the relevant public interest.

Specifically, it is necessary to diagnose the structure of public policy financing, the regulatory framework and related institutional arrangements. In fact, based on the parameters of normative economics, the normative-institutional framework of the public sector consubstantiates essential and indispensable elements to guide the conformation of public policies and, thus, engenders explanatory power relevant to improving the standard of public intervention.

Studies and research on the assessment of the quality of public spending generally emphasize the analysis of policies and programs that make up the programmatic structure of government action, by means of direct spending, assigned to the General Budget of the Federal Government (OGU). Nevertheless, it is important to emphasize that a dual system of financing

public policies coexists in Brazil, consisting of direct expenditures, with appropriations allocated in the OGU; and indirect Federal Government expenditures, consisting of tax expenditures and credit and financial benefits.

In general, there is greater clarity and perception by society regarding policies financed by direct spending, which have a relatively consolidated normative, procedural, and institutional rite.

The Federal Government's indirect expenditures have a differentiated procedure, whether in the legal system or in the very conformation of public policies thus outlined and integrated into the Federal Government's budget process. They are, in fact, instruments that are used by the public sector to achieve economic, social, and regional policy objectives. In this sense, it is based on the concession of tax treatment and financial or credit assistance to selected agents, segments or sectors, in line with the strategic orientation of government action.

In recent years, indirect expenditures showed a trajectory of continuous and sharp growth until 2015, which evidenced the adoption of active tax policies based on these instruments for financing public policies. In fact, the Federal Government's indirect expenditures registered 3% of GDP in 2003 and expanded to 6.7% of GDP in 2015. In the period, tax expenditures increased from 2.0% to 4.5%; and credit and financial subsidies evolved from 1.0% of GDP to 2.1% of GDP.

As of 2015, the unbalanced scenario in public accounts led to the concatenation of efforts towards tax consolidation and, thus, measures were outlined in favor of reducing the deficit and public debt. In 2016, with the adoption of the new tax regime, a limit was set on direct federal spending and, *pari passu*, a reorientation of policies financed by indirect spending, *e.g.*, reduction in tax expenditures under the payroll tax relief policy and subsidies granted by the Federal Government under the aegis of loans to the National Bank for Economic and Social Development - BNDES.

Regarding the normative-institutional parameters of the Federal Government's indirect spending, and the governance of the public sector itself, there have been several advances that should be highlighted. In fact, the institutional conformation of the so-called Government Center, integrated by the Civil House of the Presidency, the Ministry of Economy and the Office of the Comptroller General of the Federal Government, constitutes a favorable environment to ensure discipline, institutional interaction and improvement in the standards of execution of these expenditures. In this context, it is worth noting the joint formulation of the Guides for the

Assessment of Public Policies, on an *ex-ante* and *ex post* basis; and the joint efforts towards the formulation and approval of a monitoring and assessment structure for tax expenditures, credit and financial benefits of the Federal Government, which led to the approval of the Committee for Monitoring and Assessment of Federal Government Subsidies - CMAS.

In this sense, this work consists of an analysis of the normative and institutional processes related to the Federal Government's indirect expenditures, with the purpose of showing their complementarity in the Federal Government's dual financing structure, the relevance of these expenditures in tax policy management, and the importance of institutional actions to improve the governance of these expenditures.

The paper is organized into seven sections, the first of which is this introduction. The next section discusses the relevance of direct spending for tax policy management. Section 3 explains the normative and institutional foundations of the dual financing basis of the federal government's indirect expenditures. Section 4 describes the experience of selected countries in implementing public policies through tax expenditures and other forms of subsidies. Section 5 focuses on the evolution of the Federal Government's indirect expenditures in the 2003-2019 period. Section 6 highlights the combination of institutional efforts toward the implementation of governance parameters for the Federal Government's indirect spending, with a view to contributing to increasing transparency, *accountability*, control and improvement of government action based on this type of public funding; and the last part records the final considerations.

2 - Indirect expenditures of the Federal Government: relevance in Tax Policy management

The organization of State action, with a view to fulfilling the classic functions of tax policy, presupposes the use of public financing instruments, with a view to ensuring the efficient allocation of resources, promoting the equitable distribution of income and available resources, and guaranteeing economic stability, as postulated by Musgrave (1974).

In fact, there are events that hinder the efficient allocation of resources in the economy and the adequate provision of public goods, *e.g.*, *in the* form of externalities¹², market failures, and production structures that impede the process of competitive price formation³. Given this framework, Pigou (1920), based on the principles of welfare theory, established the differentiation of the net private product of an activity and the net social product - which includes all externalities. In this regard, he points out that if the net private product exceeds the social product, the production is greater than the efficient one, and vice versa. The derived prescriptions to mitigate imbalances reinforce the importance of government intervention, through the adoption of taxes and subsidies, to promote efficiency and the internalization of externalities in the behavior of economic agents⁴. Pareto (2014) established social utility as the relevant variable to evaluate the well-being of the economy, replacing factors linked to the real life of individuals.

In the public finance literature⁵, the analyses of the role of the state in the economy commonly point to the relevance of public intervention, with a view to acting effectively in favor of the efficient operation of markets, the provision of public goods, and the promotion of the welfare of society.

It is well known that government action is primarily associated with *tradeoffs*, inherent to the public choice process, which imposes the comparison of costs and benefits. Normative analysis is concerned with identifying the elements that are indispensable and essential to state intervention, for the selection of policies that promote, on an effective basis, an increase in efficiency and well-being. Positive analysis shapes the field of political economy of government action and other political restrictions.

¹ Externalities are associated with the decisions of economic agents, which can generate positive or negative impacts on the welfare of others. Externalities can be negative, such as the emission of pollutants, or positive, *e.g.*, *the* creation of new technologies.

² Market failures arise from several events that hinder the efficient allocation of resources in the economy, *e.g.*, information asymmetry - when the information that guides supply and demand are different, which may induce behavior that distorts the market equilibrium; and public goods, which do not have economic incentives to their provision, considering, among other aspects, that several agents who do not pay for the product or service, may enjoy consumption (*free riders*), *e.g.*, security and public lighting.

³ Some markets may be incomplete in giving rise to Market Power, whereby certain segments of production set prices above market levels, which is detrimental to free competition and economic efficiency, a typical example being monopolies and cartels.

⁴ Later, Ronald Coase (see: Coase, R.H., *The Problem of Social Cost*, *The Journal of Law & Economics*, Vol. III, October, 1980), enunciated a theorem, which states that if there are well-defined property rights (which allow agents to trade) and there are no transaction costs, the solution of a bargain is pareto independent of the initial allocation of resources. This theorem implies that if agents affected by externalities can bargain (without transaction costs) from well-defined property rights (usually by the state), they can bargain and reach an agreement in which the welfare losses from externalities are internalized.

⁵ See, by the way, REZENDE (2001).

In considering alternative forms for government intervention, Stiglitz (1988, p.239) ponders the following:

"Once a market failure has been identified, a variety of government actions might address the problem. The three major categories of actions are public production; private production with taxes and subsidies aimed at encouraging those activities the government wishes to encourage and discouraging those activities it to discourage; and private production with government regulation aimed at ensuring that firms act in the desired way".

"The consequences of any government program are critically dependent on the exact nature of the program. Thus, if the government decides to bear responsibility for production, it will must decide on how the output is to be allocate. (...) if the good is to be privately produced, the government must decide whether to: (a) contract directly for the commodity but retain responsibility for distribution the good; (b) provide a subsidy to producers, with the hope that some of the benefits will be passed on to consumers through lower prices; or (c) provide a subsidy to consumers. And if some form of subsidies is desired, it must be decided whether it should be provided through the tax system or through a direct grant. If a subsidy is granted, the terms must be decided upon - e.g., how restrictive eligibility standards should be. All of these possible forms of government action are observed."

In Brazil, the ordering of State action to implement public policy guidelines has been guided by a dual structure of public funding. Thus, tax policy managers and all public agencies empowered to formulate public policies do so by adopting two funding bases for government action: the first, consisting of direct expenditures, has a consolidated rite within the scope of public sector finances and programmatic action is carried out through appropriations consigned in the Federal General Budget (OGU); the second, consisting mostly of indirect expenditures, which will be analyzed in the next section, is carried out through tax expenditures and financial and credit subsidies from the Federal Government, commonly used to achieve economic, social and regional policy objectives.

The historical evolution of the Federal Government's indirect spending showed a sharp growth until 2015, as will be shown in section V. In fact, the federal government's indirect spending increased from 3.0% of GDP in 2003 to 6.7% in 2015. From then on there was a reversal of this trajectory, with more significant reductions in financial and credit subsidies.

As an illustration, tax expenditures showed significant growth, considering that they registered values equivalent to 2.0% of GDP in 2003 and reached 4.5% of GDP in 2015. On a comparative basis of relevant parameters of tax policy, tax expenditures represented approximately 33% of the revenues administered by the Federal Revenue of Brazil (RFB) and

around one fifth of the primary expenditures of the Federal Government (21.7%)⁶. In 2019⁷, it was observed that tax expenditures represented 20.9% of the revenues administered by the RFB and maintained a relatively stable share in relation to primary expenditures, of 21.4%

After 2015, due to a serious tax imbalance in public accounts, notably evidenced by the definition of⁸ primary deficit targets for the central government (Treasury, Central Bank and Social Security), a new tax regime⁹ was sanctioned, based on tax rules defined *a priori* to guide the direct spending of the Federal Government. In this context, a limit/ceiling was established for the execution of expenditures in the Federal Budget.

In this same period, the adverse scenario for the management of public accounts established a reorientation of tax policy, through a combination of actions aimed at tax consolidation, *i.e.*, guided by a process of revenue and public spending management eminently associated with reversing the deficit and reducing public debt. These premises were considered of utmost importance to reverse negative expectations of economic agents and, thus, promote the resumption of investments and economic growth.

The strategic reorientation of tax policy, starting in 2015, showed a reversal of active tax policies, based on tax expenditures and credit and financial subsidies from the Federal Government. In the list of relevant policies that were revised, we highlight the tax expenditures, in the scope of the payroll exemption policy and the subsidies granted by the Federal Government, under the aegis of the loans obtained from the National Bank for Economic and Social Development - BNDES.

Currently, the Federal Government's indirect expenditures have been continuously referenced as relevant instruments for tax management, with due quantification and

⁶ See: Subsidy Budget of the Federal Government: Report of the Federal Government on tax expenditures and financial credit benefits of the Federal Government in the period 2003 to 2016, Brasília, 2016, p. 26. Available at: <https://www.gov.br/fazenda/pt-br/centrais-de-conteudos/publicacoes/orcamento-de-subsidios-da-uniao/arquivos/orcamento-de-subsidios-da-uniao-2016.pdf>> Accessed March 20, 2020.

⁷ See 4th Federal Government Grant Budget: Report on Tax, Financial and Credit Benefits in the period 2003-2019, Brasília, July 2020, pg. 9. Available at:

<https://www.gov.br/economia/pt-br/ acesso-a-informacao/participacao-social/conselhos-e-orgaos-colegiados/cmmap/publicacoes/subsidios-da-uniao/gastos-com-subsidios/osu/4o-orcamento-de-subsidios-da-uniao-2013-julho-de-2020/view>> Accessed July 30, 2020.

⁸ At the end of 2014, the Executive Branch submitted a proposal to the National Congress to change the primary surplus target of the Central Government - National Treasury, Social Security and Central Bank, initially set by the Budget Guidelines Law for 2015, from a surplus of R\$ 55.3 billion to a deficit of R\$ 119.9 billion. From then on, the budget process began to contemplate primary deficit targets in the Federal Government's accounts, *e.g.*, R\$ 139 billion for 2019 and R\$ 124.1 billion for 2020.

⁹ In the terms of Constitutional Amendment no. 95, of December 15, 2016 - which institutes the New Fiscal Regime and makes other provisions - individualized limits were established for the primary expenditures of the Executive Branch; of the Supreme Federal Court, the Superior Court of Justice, the National Council of Justice, the Labor Justice, the Federal Justice, the Federal Government Military Justice, the Electoral Justice, and the Federal District and Territories Justice, within the Judicial Branch; of the Federal Senate, the House of Representatives, and the Federal Government Audit Court, within the Legislative Branch; of the Federal Government Public Prosecutor's Office and the National Council of the Public Prosecutor's Office; and of the Federal Government Public Defender's Office.

publicization of these public policy financing instruments. With the recent adoption of a peculiar normative-institutional framework for assessment, starting in 2018, the foundations were laid for the process of evaluating policies financed by indirect spending and, consequently, for examining the impacts and results of this modality of Federal Government spending. The new institutional parameters for managing the Federal Government's indirect spending meet the conditions for examining the opportunity cost of the resources executed in this way, *vis-à-vis the* execution of expenditure through the budget. In this sense, it is a relevant institutional improvement, to increase transparency, promote appropriate standards of *accountability* and social control over the effectiveness of tax expenditures, credit and financial subsidies

It is important to note the relevance of establishing cultural standards endogenous to the management of tax policy, in the sense that the Federal Government's indirect spending is, in fact, referenced to another form of government action, substitutive or complementary to the conventional mode of direct spending. However, they result in a burden to society, due to the funding sources that substantiate them and, therefore, should be guided by criteria of effectiveness of the programs and actions thus outlined.

3 - Direct and indirect expenditures of the Federal Government: fundamentals and normative-institutional framework of the dual base of public funding

The Federal Government's financing structure for public policies has an eminently dual basis. In fact, direct federal expenditures are made by means of appropriations earmarked in the OGU to guide the federal government's programmatic action, and constitute the predominant mode of financing in the organization of state action.

Another base of public funding is constituted by the so-called indirect expenditures of ¹⁰the Federal Government, integrated by credit, tax and financial benefits. It is worth noting that the concept of indirect spending, as a general denomination, does not have a settled and/or pacified reference in public finance literature. Likewise, this denomination is not the object of formal registration expressed in a specific rule. Thus, there are references to indirect

¹⁰ It is important to note that the concept of "indirect spending" by the Federal Government does not yet make up the public finance system on an intertemporal basis. In fact, this denomination was used in the 2012 Budget Guidelines Law (LDO), pursuant to Art. 89, § 2 of Law No. 12,465, of November 12, 2011. It should be noted that this denomination is used in the concept of tax expenditures, used by the RFB to prepare the Statements of Tax Expenditures, submitted annually in the attachments of complementary information to the Annual Budget Bill (PLOA).

government spending in rules specific to the budget process¹¹ and/or in specific documents of the Federal Government, but without any specific formal definition.

Given this scenario, and considering the background regarding the budgetary-financial practice and the gap as to a formal definition regarding the Federal Government's indirect expenditures, it is postulated that these expenditures can be defined as: expenditures that are part of the funding base of public policies, complementary to the direct expenditures of the Federal Government's General Budget, with a unique rite, associated with the implementation of strategic economic, social and regional policy guidelines.

Regarding the concept postulated for the federal government's indirect spending, it is important to note the relevant difference between this conceptual basis *and the* one adopted in the publications "Federal Government Grants Budget", referenced in section V. In the mentioned publications, the concept of subsidies is adopted from an economic point of view, for the set of tax expenditures and credit and financial benefits aimed at fostering economic activity by correcting market failures or imperfections and, thus, aiming at reducing direct prices to the consumer or costs to the producer. In this paper, the budgetary-financial concept is adopted, guided by the fundamentals of public finances, which postulate the organization of the tax policy of the public sector through revenues and public spending/expenditures to support the implementation of public policies and achieve economic, social and regional policy objectives.

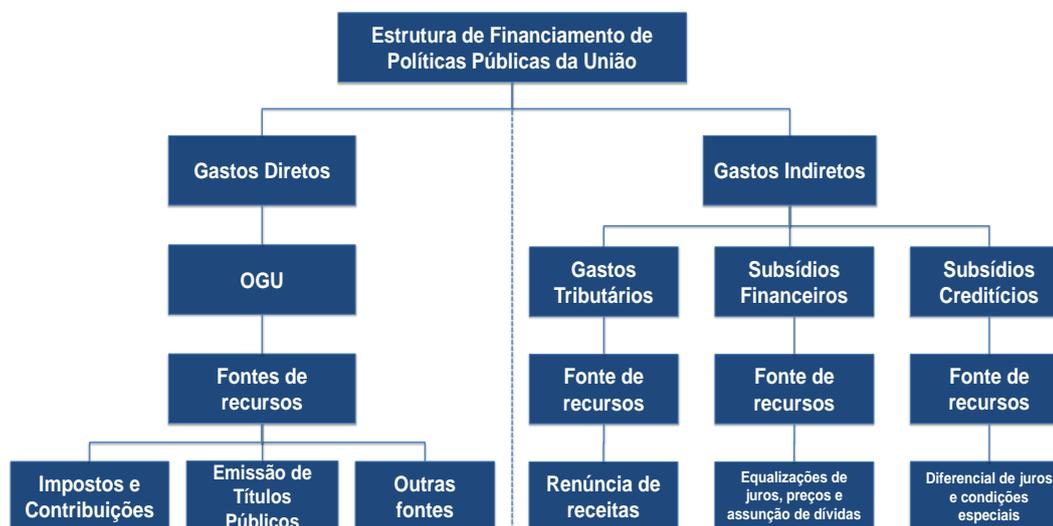
A particularly important aspect about the execution of the Federal Government's indirect expenditures refers to the fact that most of them are not included in the main part of the Budget (Annual Budget Law - LOA). There is an express provision in Article 167, § 6 of the Federal Constitution of 1988 (CF/88) for the presentation of an annual statement of these expenditures in the context of the Federal Government's budget process. However, the statements pertaining to indirect spending comprise only the list of complementary information to the main project authored by the Executive Branch¹². Thus, this category of spending is subject to the knowledge and analysis of Parliament, but is not subject to the scrutiny of the National Congress.

¹¹ It is worth mentioning, e.g., the reference provided in Article 95 of Law 10,934, of August 11, 2004 (LDO 2005); § 2 of Article 89 of Law 12,465, of August 12, 2011 (LDO 2012); and in the conceptual basis used by the Federal Revenue Service within the scope of the Tax Expenditure Statements, e.g., Tax Expenditure Statement - Effective Bases 2017 - 2015 to 2010 series, available at: <<https://receita.economia.gov.br/dados/receitadata/renuncia-fiscal/demonstrativos-dos-gastos-tributarios/arquivos-e-imagens/dgt-bases-efetivas-2017-serie-2015-a-2020-base-conceitual-e-gerencial.pdf>> Accessed on August 02, 2020.

¹² In the scope of the institutional procedures of the Federal Government's budget process, the PLOA must be sent to the National Congress by August 31, and the complementary information to the PLOA by September 15.

It should be noted that the meaning of indirect spending, already contemplated in norms of temporary effect, derives from the *modus operandi* of the Constitution of this public financing base and from the very way it is integrated into the OGU, as an integral part of the complementary information to the Annual Budget Law (LOA). Figure 1 illustrates the peculiar organization of the dual financing basis of the Federal Government.

Figure 1 - Financing structure of the Federal Government's public policies



In fact, it is well known that the conventional way of funding public programs and policies, with greater transparency and control, is through direct expenditures recorded in the OGU, according to a rite peculiar to the budget process. It should be noted, in this sense, that the expenditure budget classifications (institutional, functional, by program, among others) bring together elements that enable the monitoring, control and assessment of the execution of policies and programs and, thus, impact and result analyses of this type of public funding.

The first modality of public funding is based on direct expenditures, whose programmatic structure has as its sources of resources taxes, contributions, public bond issues and other revenues¹³. These revenues are detailed in the OGU, by nature and source¹⁴.

The second modality, which makes up the dual base of public funding of the Federal Government, is composed of indirect expenditures. These, in turn, are composed of tax expenditures, financial benefits and credit¹⁵ benefits¹⁶.

It is important to note that, within the Federal Government, there are already several institutional actions related to the preparation and forwarding of information on tax expenditures and financial and credit benefits of the Federal Government, to be included in the annexes of the LOA¹⁷. It is worth noting that in recent years, the Ministry of Finance (now the Ministry of Economy¹⁸) has guided institutional actions towards the quantification, in a consolidated way, and the publication of tax expenditures, financial and credit benefits of the Federal Government, on an annual basis, through a technical report entitled "Subsidies Budget of the Federal Government"¹⁹.

The referenced reports adopt a peculiar concept for the three types of indirect expenditures of the Federal Government, uniformly referred to as *subsidies*, due to the economic meaning applicable to these instruments. Thus, the subsidies are conceptualized as all and any "assistance of financial, credit or tax nature, which aims to foster economic activity by correcting market failures or imperfections", to "reduce the direct price to the consumer or

¹³ Other revenues include: remuneration from the Single Treasury Account, interest and remuneration received, exploration of natural resources and other revenues. For more information, see Secretaria do Tesouro Nacional, Fluxo de receitas e despesas, available at: < <https://www.tesourotransparente.gov.br/historias/fluxo-de-receitas-e-despesas>> Accessed September 10, 2020.

The OGU includes the classification of the various revenues that guide the execution of expenditures, by nature and source. According to the Budget Technical Manual (MTO)¹⁴, the classification by nature of revenue refers to "the identification of the origin of the resource according to the taxable event: the actual event that caused the revenue to flow into the public coffers. With reference to the *Source/Destination of Resources*, it refers to "each grouping of revenues that has the same application rules. The Source, in this context, is a Revenue and Expenditure Management instrument at the same time, since its purpose is to ensure that certain revenues are directed to finance government activities (expenditures) in accordance with Laws governing the subject." See by the way, MTO 2020, available at: < <https://www1.sioop.planejamento.gov.br/mto/lib/exe/fetch.php/mto2020:mto2020-versao7.pdf>> Accessed September 10, 2020.

¹⁵ The conceptual basis of tax expenditures is not derived from law. It is a concept used by the Federal Revenue Secretariat since 2004, in accordance with the denomination used in international literature to designate this type of expenditure, and it is part of the statements sent in the Annex to the Annual Budget Law Project. The concept of Financial and Credit Benefits are established by the Ministry of Finance's Administrative Rule no. 379, from November 13th 2006. These concepts are presented in Section 3.

¹⁶ In the recent period, the document entitled "Federal Subsidy Budget", prepared by the Secretariat for Planning, Evaluation, Energy and Lottery - SECAP, adopts the peculiar concept of subsidies for these public policy financing instruments.

¹⁷ The normative-institutional framework of these expenditures will be explained in the specific section on indirect expenditures.

¹⁸ Pursuant to Decree No. 9.756, dated April 8, 2019.

¹⁹ See, e.g., "4th Federal Government Grant Budget." Available at: < <https://www.gov.br/economia/pt-br/centrais-de-conteudo/publicacoes/boletins/boletim-subsidios/arquivos/2020/osu-2020-final-em-09-07-2020-18h25.pdf/view>> Accessed September 10, 2020.

the cost to the producer". It is important to note, however, that the concept used has not yet been approved in any rule to regulate the indirect spending of the Federal Government.

Furthermore, the reports consider that "*In the Federal Government, there are subsidies both on the expenditure side (subsidies or financial and credit benefits), and on the revenue side (subsidies or tax benefits)*"²⁰. It should be noted that the tax expenditures have as a "source of funds", in the terms of figure 1, the revenue waivers, defined under Article 14 of Complementary Law No. 101 of May 4, 2000²¹, the Tax Responsibility Law. In fact, this is not a classical meaning of source of resources, in terms of public finance guidelines. It is, in fact, an exogenous reference to the budgetary-financial *praxis*, however, it still represents a source for the legitimate implementation of public policies, derived from the suppression of resources from the tax base that originates them. Otherwise, these resources would integrate the tax base and follow the normal course of tax collection, although in a different amount, due to the recognized behavioral effects of taxpayers. Thus, it is fair to say that this is, in fact, a type of public spending, under the name of tax spending, according to the internationally accepted concept, and that it uses the tax system to constitute its main source of funds, referred to as waiver of revenue, pursuant to law.

Next, we present pertinent considerations about the normative, legal, institutional, and procedural framework that currently guides the dual structure of financing public policies of the Federal Government.

3.1 - Direct expenditures of the Federal Government (OGU)

The public budget is an instrument of a unique nature to fulfill the functions imbued to the public sector and, in this way, consigns appropriations of resources, from the estimate of revenues, to fulfill the programmatic action of the State. It is, in effect, the ordering of the government's strategic orientation, with a view to meeting public needs and the demands of society. Public finance guidelines and directives guide the preparation of the OGU, in line with the principles that govern public management, namely: Unity, Universality, Gross Budget, Annuity or Periodicity, Non-Affection of Revenues, Breakdown or Specialization, Exclusivity, Equilibrium, Clarity, Publicity, Accuracy and Programming, as recorded by Giacomoni (2005).

²⁰ See: *op cit.* NR 19.

²¹ Available at: < http://www.planalto.gov.br/ccivil_03/leis/lcp/lcp101.htm > Accessed September 10, 2020.

The normative-institutional framework that guides the execution of direct expenditures observes a peculiar rite in the context of the Federal Government's budget process. This process is defined in terms of Articles 165 to 168 of CF/88 and, thus, are governed by guidelines and rules set forth in the Multi-Year Plan (PPA), the Budget Guidelines Law (LDO), and the Annual Budget Law (LOA).

Thus, direct expenditures are part of the planning of state action and are initially affected through appropriations earmarked in the OGU, segmented into expenditure on costing and/or investment in policies and programs that make up the action of the public sector. Subsequently, these expenditures are executed in accordance with the limits defined in the financial programming of OGU expenditure.

3.1.1 - Normative framework of the Federal Government's direct expenditures

The Federal Government's budget process is integrated, according to Article 165 of CF/88, by laws of private initiative of the Executive Branch, which must provide for the Multi-Year Plan, valid for four years, the budget guidelines, and the annual budget, temporarily valid for one year.

The PPA must establish guidelines, objectives and goals of the federal public administration, in a regionalized manner, to guide the actions of a structural nature, conformed into a programmatic framework of public policies. The LDO defines the guiding parameters for the preparation of the annual budget, highlighting the definition of priorities for the allocation of public resources in the tax year. The LOA presents the detailing of programs and actions for the execution of the budget, sets appropriations and related sources of funding.

With reference to the cohesion of public policy planning, the FC/88 determines that national, regional and sectoral plans and programs must be elaborated in consonance with the PPA.

CF/88 also refers to the express subordination of the budget-financial system of the Federal Government to guidelines to be defined in a Complementary Law, as provided in Article 165, paragraph 9, and determines that the appreciation of the budget by the National Congress will observe a differentiated procedure, through a Permanent Joint Commission of Senators and Deputies, under Article 166, paragraph 1, I and II. One should highlight, by the way, the provisions of Complementary Law No. 101 of May 4, 2000 - the Tax Responsibility

Law (LRF) - which sets guidelines for guiding the process of budget planning and execution of public expenditures.

It is of utmost importance to highlight that the LRF establishes instruments to guide tax management in all phases of the budget process. Thus, in addition to the guidelines relevant to planning, parameters are set to guide the implementation of expenditure and provide transparency, control and supervision of public spending. Regarding the monitoring of the execution of expenditure, the LRF determines the preparation of the following instruments to assist in the management of tax policy: (i) the Summary Report of Budget Execution (RREO), with bimonthly periodicity; and (ii) the Tax Management Report (RGF), to be prepared on a four-monthly basis. Regarding the assessment of public spending, the LRF expressly defined normative guidance for the LDO, to define guidelines relevant to cost control and the assessment of the results of programs financed with budget resources (Article 4, I, "e").

Regarding the OGU budget execution process, it is important to note the importance of the guidelines set out in Law no. 4,320 of March 17, 1964 - which establishes General Norms of Financial Law for the preparation and control of budgets and balance sheets of the Federal Government, the States, the Municipalities and the Federal District. The normative framework that guides the planning, execution, control and assessment of the OGU also includes Resolutions, Internal Rules and Regulations of the Legislative Branch - which guide the appreciation of the Budget in the National Congress (discussion, voting and approval in the National Congress); and other norms related to the annual budget, through Decrees, Ordinances and Normative Instructions of the Executive Branch.

3.1.2 - Institutional and procedural framework of the public policy cycle

Within the Executive Branch, which has exclusive competence for preparing the rules that are part of the budget process (PPA, LDO, and LOA), the Ministry of the Economy, through the Federal Budget Secretariat (SOF) - as the specific body of the Federal Planning and Budget System - is responsible for coordinating, consolidating, and supervising the preparation of the LDO and the federal budget proposal (PLOA), including the tax and social security budgets.

Regarding the deadlines for processing the rules of the budget process, it should be noted that there is no definition derived from the Complementary Law referenced in Article 165, paragraph 9. Thus, the deadlines currently adopted derive from a temporary command, provided

for in Article 35, paragraph 2 of the Act of Transitional Constitutional Provisions (ADCT), which states:

"The provisions of art. 165, § 7 will be fulfilled progressively over a period of up to ten years, distributing the resources among the macroeconomic regions in proportion to the population, based on the situation verified in the 1986-87 biennium.

(...)

Until the complementary law to which article 165, § 9, I and II refers comes into effect, the following norms will be obeyed:

I - the pluri-annual plan project, to be in effect until the end of the first financial year of the subsequent presidential mandate, will be forwarded until four months before the end of the first financial year and returned for sanction until the end of the legislative session [until December 22];

II - the budget guidelines bill will be forwarded until eight and a half months before the end of the tax year and returned for sanction until the end of the first period of the legislative session [until July 17];

III - the federal budget bill will be forwarded until four months before the end of the tax year and returned for sanction until the end of the legislative session [until December 22]".

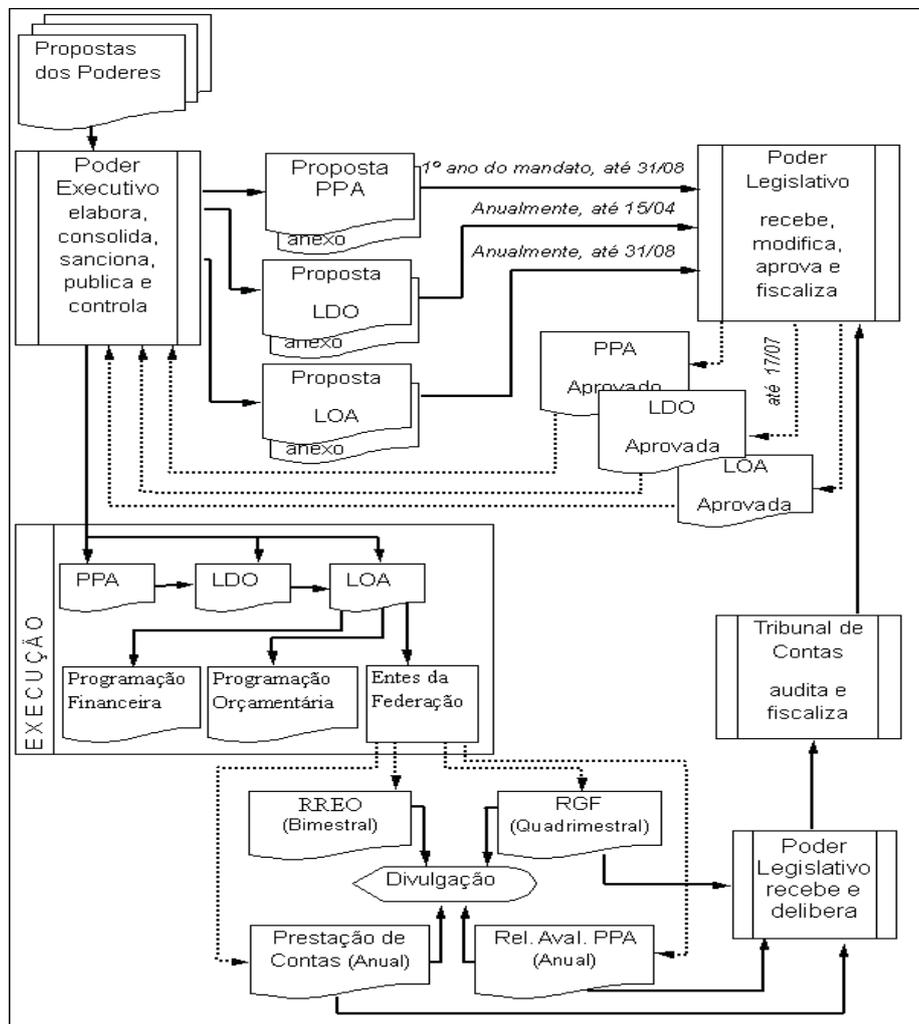
It should be noted that SOF is responsible for the process of coordination, consolidation and supervision of the budget proposal, previously prepared by the various bodies that make up the Tax and Social Security Budgets. Besides the process of consolidation and conformation to the goals and priorities of the Public Administration, SOF monitors and analyzes the execution of the Budget, of the parliamentary amendments, and of the additional credits, not included or insufficiently endowed in the Budget Law, under the form of supplementary, special, or extraordinary credits.

The National Treasury Secretariat (STN) oversees the monthly and annual financial programming of the OGU, as the central body of the Federal Financial Administration and Federal Accounting Systems. In this context, the STN's attribution of monitoring, systematizing and standardizing the execution of public expenditure through the RREO and the RGF is of the utmost importance for the management of tax policy. These reports, in addition to other functions related to transparency and control of the evolution of budget expenditure, bring together elements to guide the proposition of limitations to the financial programming of the agencies that make up the tax budget and social security and, thus, the maintenance of the trajectory of compliance with the tax targets set in the OGU.

Table I summarizes the flow of activities that make up the stages of elaboration, appreciation of the rules that are part of the budget process and subject to the scrutiny of the

National Congress. It also shows the stages of execution, monitoring, accountability and assessment of the programs that make up the PPA.

Table I - Federal Government Budgetary Process



Source: Mognatti (2008)

In addition to the institutional responsibilities, deadlines and budget procedures, it is worth highlighting the procedural guidelines relevant to the assessment of public policies within the OGU. The law that approves the PPA ²²determines the annual disclosure of structured data and information on the implementation and monitoring of the PPA; and the submission to the National Congress of the Annual Plan Assessment Report, which will include (i) analysis of the behavior of the macroeconomic variables that were the basis for the preparation of the Plan; (ii) analysis of the situation, by Program, of the Indicators, Objectives and Goals; and (iii) financial execution of the actions linked to the objectives of the Thematic Programs.

²² See, by the way, Law No. 13,971, of December 27, 2019 - which establishes the Federal Government's Multi-Year Plan for the period 2020 to 2023.

Regarding the budgetary-financial process of the Federal Government, it is important to mention relevant institutional arrangement, due to the constitution of the Board of Budgetary and Financial Execution (JEO)²³, as a direct advisory body to the President of the Republic, "*in the conduction of the Federal Government's tax policy, aiming at the balanced management of public resources, the reduction of uncertainties in the economic environment and the intertemporal sustainability of public indebtedness*". The JEO is composed of the Minister of State of the Economy, responsible for coordination, and the Minister of State Chief of Staff of the Presidency. In addition, the JEO is integrated by the Technical Committee of Budgetary and Financial Management, with the bodies referenced in Article 5 of Decree No. 9884/2019.

With reference to the monitoring and assessment of the Federal Government's direct expenditures, it is important to register that, in the scope of some previous PPA, actions have already been implemented aiming at evaluating the impacts and results of the sector's actions through this financing modality. It is worth mentioning, *e.g.*, the actions implemented through the so-called Multiyear Plan Planning and Management Information System - SIGPLAN, which was conceived as an instrument of organization and integration of the PPA's network of sectorial agencies. Besides this, several public policies financed in this way have been evaluated within the scope of the Ministry of Planning, Budget and Management and by the policy managing agencies themselves. In the recent period, the system for monitoring and evaluating public policies follows the guidelines of the Council for Monitoring and Assessment of Public Policies - CMAP²⁴.

Specifically, regarding the control and transparency actions of the Federal Government's programmatic action, it is worth noting that the Office of the Comptroller General (CGU), as the central body of the Internal Control System of the Federal Executive Branch; and the Federal Audit Court (TCU), as an auxiliary body of the Legislative Branch's external control, carry out normative, financial, and operational audits. Besides the analysis of the normative conformity and the adequacy of the physical-financial execution, the operational audits present qualitative contributions to the management of the programs selected for assessment. This is because they presuppose a detailed assessment, with recommendations and determinations to promote the redirection of the policy and/or its revision, considering the strategic orientation of the PPA.

²³ Instituted by Decree No. 9,884, June 27, 2019.

²⁴ Instituted by Decree No. 9,834, June 12, 2019.

International experience has shown that the adoption of governance parameters - in the form of institutional arrangements that provide appropriate standards of leadership, strategy and control of public policies - contributes to improving regulation as an instrument for the improvement of public spending, given the need to confer greater transparency and promote greater efficiency in public sector action. Thus, the procedures related to the improvement of formulation, control, transparency, *accountability* and assessment processes should be common practice for all sectoral agencies that interact in the Federal Government's budget-finance process.

3.2 - Indirect Expenditures of the Federal Government

In line with the meaning of indirect spending, this section addresses the conceptual basis of each of its constituent elements, namely, tax expenditures, credit and financial benefits. Moreover, particular importance is given to the aspects peculiar to the cycle of public policies guided by these instruments, markedly different from the direct expenditures of the Federal Government; in the normative-procedural framework of its implementation and the way it interacts with the Federal Government's budget process.

3.2.1 - Conceptual Basis

3.2.1.1 - Tax Expenditures

The term "Tax Spending" was initially adopted in the economic literature by Stanley Surrey²⁵, as a conceptual basis for²⁶the special provisions of the Income Tax (deductions, exemptions and other benefits), which constituted financial assistance from the government, implemented through the tax system, to achieve economic and social objectives, rather than direct spending. The proposed concept suggests the denomination of expenditure because it is a financing instrument for public policies with objectives like those of direct expenditures, but under a prism of substitutability and/or complementarity.

²⁵ For more details, see Surrey (1973). Stanley Surrey worked as Under Secretary of the U.S. Treasury in the late 1960s and devoted particular attention to the special exemptions in the federal tax code. He postulated the elimination of these exemptions so that the tax code's guidelines would return to their original purposes of increasing revenue rather than driving social policy. As a result of his efforts, in 1967, the first tax expenditure budget for the United States was published. In 1974, the list of waivers was ratified in the 1967 Budget Act, which mandated the inclusion of the related estimates in the annual Budget.

²⁶ As per technical records presented in a Note from the Secretariat of Economic Policy of the Ministry of Finance, entitled "Budgetary and Economic Aspects of Indirect Expenditures of a Tax Nature," Brasília, 2016.

Although mandatory since the 1988 Constitution, these tax breaks were classified as tax benefits until 2003. However, as explained by the Federal Revenue Service itself in the Statement of Indirect Government Expenditure of a Tax Nature for the year 2004, this definition did not include a budgetary viewpoint, contrary to what is observed in the reports of member countries of the Organization for Economic Cooperation and Development - OECD.

The term, which originated in 1967 in the United States, is justified based on the idea that tax relief represents an expenditure made via a reduction in the tax burden. The idea of expenditure further reinforces the notion that this waiver implies a cost to the State and that, even if indirect, it must be constantly submitted to an analysis of efficiency, efficacy, economy and effectiveness, just like any other public expenditure. Thus, as this reduction in tax collection can be replaced by a direct budgetary expenditure, characterizing an allocation of public resources, and aiming at standardization with the concept used in other countries, the term tax expenditures was adopted.

From the perspective of the material basis of tax expenditures, it is observed that these arise from a tax policy guideline that postulates a *a priori* waiver of public revenue, through exclusions from the tax base, deductions, deferrals of obligations, tax credits or special rates. This type of public spending has the nature of indirect spending because it is implemented through the tax system for the benefit of certain activities, sectors or groups of people, replacing direct spending.

In the OECD, despite the specificities of the member countries' tax systems, tax expenditures are conceptualized as prescriptions, regulations, or practices defined by the tax code that reduce or postpone revenues for a given set of taxpayers, relative to standard or benchmark taxation. In this sense, tax expenditures can be made by different instruments: exemptions, rate reduction, deferral, and tax credit, among others.

The approach adopted by the OECD member countries contemplates three alternative methods for measuring tax expenditures: (i) *Ex ante* revenue loss (gain) - which refers to the amount of tax collection reduced (increased) due to the introduction (abolition) of a tax expenditure, assuming unchanged taxpayer behavior and the collection of other taxes; (ii) *Ex-post* loss of revenue (gain) - refers to the amount of tax collection reduced (increased) due to the introduction (abolition) of a tax expenditure, considering the behavioral changes of agents and the effects on the collection of other taxes arising from the creation/extinction of the tax expenditure; and (iii) Equivalent expenditure or substitutive direct expenditure - defined as the

direct expenditure that would be necessary, in terms of pre-taxation, to give taxpayers the same effect-income after taxation.

In Brazil, the Special Secretariat of the Federal Revenue of Brazil - RFB ²⁷adopts the following conceptual basis for tax expenditures:

"Tax expenditures are indirect government expenditures made through the tax system, aimed at meeting economic and social objectives, and constitute an exception to the reference tax system, reducing potential revenue collection and consequently increasing the economic availability of the taxpayer.

Tax expenditures can have a compensatory character, when the government does not adequately provide the population with the services it is responsible for, or an incentive character, when the government intends to develop a certain sector or region.

It should be noted that the concept of tax expenditures is primarily associated with the definition of the Reference Tax System, as a basis for identifying deviations or exceptions to the general rule that may be classified as tax expenditures. By the way, the RFB uses three approaches for the concept of reference tax system: conceptual, according to which is taxed what fits a theoretical concept of the tax base; legal, in which the Law defines the tax base; and the analogous subsidy, like the legal approach, but that considers tax expenditure only the tax concessions that are analogous to a direct subsidy.

With reference to the methodological aspects²⁸, the RFB uses the "collection loss" method to measure the tax waivers that make up the Statement of Federal Tax Expenditures. According to the justification presented by the institution:

"The choice of this method is in line with the main objective of the Statement of Tax Expenditures, which is to assist the process of preparing the Federal Budget, since it allows a parallel between direct (general budget) and indirect (via the tax system) expenditures in a timely and comprehensive manner, besides enabling the visualization of the total amounts of public resources spent and, thus, dimensioning the real scope of state action.

The forms of calculation adopted contemplate: direct obtaining of data from taxpayers' declarations; estimates based on aggregate data; and microsimulations.

²⁷ As per Document prepared by the Special Secretariat of the Federal Revenue of Brazil regarding the concept and methodological aspects of tax expenditures. See "Exto Tributário - Conceito e Critérios de Classificação", available at: < <https://receita.economia.gov.br/dados/receitadata/renuncia-fiscal/demonstrativos-dos-gastos-tributarios/arquivos-e-imagens/sistema-tributario-de-referencia-str-v1-01.pdf>> Accessed on September 12, 2020.

This document is the basis for the preparation of the Annual Statement of Tax Expenditures prepared by the RFB. For your information, please note that the report prepared by the RFB in the period from 1988 to 2003 was called "Statement of Tax Benefits - DBT". As of 2004, the name "tax expenditure" was adopted, with the corresponding methodological change. According to the RFB, the concept used was not guided by budgetary criteria, which is why the need for methodological improvement was identified, including because the denomination tax expenditures allows greater uniformity with the criteria adopted in other countries.

²⁸ As per publication released by RFB, entitled "Methodology for Calculating Tax Expenditures", RFB, July 2020, available at: <https://receita.economia.gov.br/dados/receitadata/renuncia-fiscal/demonstrativos-dos-gastos-tributarios/anexo-metodologico-versao-1-2.pdf>

With reference to tax expenditures, it is important to note that this concept, similarly to the definition of indirect expenditures of the Federal Government, is not referenced in a specific public finance standard. It is, in fact, a meaning formally adopted by the RFB to guide the preparation of the statements of tax expenditures that make up the annexes to the PLOA, based on international²⁹ literature specialized in tax matters, but without the proper normative reference in the public finance system.

Under the primarily normative prism, it should be noted that the formal concept expressed in Article 167, paragraph 6 of the Constitution refers to "tax benefit", meaning, in our view, eminently associated with the enjoyment of policies and programs funded by tax expenditures. From the standpoint of the public administration, responsible for granting the tax benefit, it is important to pay attention to the propriety and adequacy of the financing instrument used, equivalent to a direct expenditure, but executed indirectly through the tax system, giving it the correct denomination of tax expenditure.

Given the gap regarding the definition of a single conceptual basis on tax expenditures, there are several expressions adopted in legislative proposals, forums, academic studies and others, to express this type of public spending, which engenders a benefit to taxpayers, sector or region. This framework suggests the due examination of the various meanings, under the theoretical prism of public finance literature, to standardize this relevant concept in future legislative proposals. As Almeida (2000) points out³⁰, the main denominations used are:

(i) Revenue Waiver: Expression usually used in budgetary terminology to express "losses in tax collection", derived from several tax benefits (exemptions, amnesties, remission, special reduction of the tax base or rates, etc.) granted to taxpayers in certain sectors, regions or specific activities.

(ii) Tax Benefit: Expression with similar meaning to the concept internationally known as "*tax expenditure*". It should be considered, however, that "tax benefit" suggests obtaining a tax advantage, in relation to the standard system, by the taxpayer. On the other hand, "tax expenditure" indicates the type of indirect spending, through the tax system, carried out by the

²⁹ O Manual de Transparência Fiscal, do Fundo Monetário Internacional, registra que "*Tax expenditures include exemptions from the tax base, allowances deducted from gross income, tax credits deducted from tax liability, tax rate reductions, and tax deferrals (such as accelerated depreciation).*" Vide *Manual on fiscal transparency*. -Washington, D.C.: International Monetary Fund, Fiscal Affairs Dept., [2001], disponível em: < <https://www.imf.org/external/np/fad/trans/manual/manual.pdf> > Acesso em 12 de setembro de 2020.

³⁰Almeida (2000).

government, using the discretionary prerogatives granted to it to define priorities for public policies, instead of direct spending;

(ii) Tax Benefit: Refers to benefits authorized under the tax policy guidelines and, as the very meaning of the term suggests, may include benefits in the revenue (tax) and expenditure (*e.g.*, subsidies, grants, etc.) areas;

(iii) Tax Incentive: This is defined as a subset of tax benefits. A tax benefit is classified as a tax incentive if it is "behavior inducing", *i.e.*, that it is associated with a structure of incentives to condition the behavior of economic agents, to achieve objectives outlined by economic or social policy. By way of illustration, mention may be made of the exemption from Income Tax on the actual income obtained by means of deposits in savings accounts by taxpayers of the individual type, with the purpose of stimulating the direction of disposable income to these investments and attenuating consumption pressures, which are harmful at the beginning of a stabilization program;

(iv) *Tax relief*: This is another subset of *tax* benefits and refers to provisions in the legislation designed to mitigate adverse situations or special difficulties faced by certain taxpayers, often arising from conditions that were involuntarily presented to them. An example would be the exemption for retirement income and pensions, paid by the public social security system to people over 65 years old, whose total income consists exclusively of labor income;

(v) Tax exemption - Refers to any exclusion from the taxable base of taxes, whatever its legal form, of operations that, in principle, would be taxed by a certain incidence and that have not been classified as a tax benefit. The IPI exemption on the purchase of military equipment by the Armed Forces is a typical example of tax exemption. As a byproduct of similar measures, there is a worsening of federative conflicts, reminiscent of the constitutional sharing of taxes with states and municipalities.

The standardization of this myriad of concepts, usually used in the analysis of tax matters, would be of utmost importance, given that these are, in essence, tax expenditures, *i.e.*, refer to public policy guidelines that are made effective through legal exceptions to the normative framework that governs the tax system. This procedure would greatly contribute to the improvement of technical analyses, due to the standardization and systematization of procedural actions of the institutional instances of public finance, responsible for the implementation of public policies of the Federal Government, guided by this type of expenditure of the Federal Government.

3.2.1.2 - Financial and Credit Benefits

The second modality of public funding for policies and programs, executed mostly³¹ in the form of indirect expenditures, is constituted by credit and financial benefits from the Federal Government. The formal definition for these instruments of financial and credit assistance from the Federal Government is outlined as follows³²:

"Financial benefits or subsidies: represent the actual disbursements made through the equalization of interest and prices, as well as the assumption of debts arising from the balances of obligations of the responsibility of the National Treasury, whose amounts are included in the federal budget;

Credit benefits or subsidies are the expenditures arising from official credit programs, operationalized through funds or programs, at interest rates below the Federal Government's cost of funding."

3.2.2 - Regulatory and institutional framework

The public finance order, provided for in the **CF/88**, establishes guidelines pertinent to the transparency and registration of indirect spending in the context of the Federal Government's budget process. In this sense, Article **165, paragraph 6** establishes that the Federal Budget Law Project (PLOA) must be accompanied by "*a regionalized statement of the effect on revenue and expenditure resulting from exemptions, amnesties, remissions, subsidies, and financial, tax, and credit benefits*". The referenced statements make up the list of complementary information to the PLOA.

Constitutional Amendment no. 3, of March 17, 1993, established the inclusion of **paragraph 6 to Article 150**, which establishes the requirement of specific federal, state or municipal law to authorize any subsidy or exemption, reduction of the tax base, concession of presumed credit, amnesty or remission, related to taxes, fees or contributions. In addition, the provision states that states and municipalities must observe specific regulations about these benefits, as regulated by supplementary law.

Article 151 of CF/88 allows the Federal Government to authorize the concession of tax incentives aimed at promoting the balance of socioeconomic development among the different regions of the country;

³¹ It is important to register that the financial benefits, also called "explicit", contain appropriations in the PLOA for the equalization and assumption of debts that are the responsibility of the National Treasury.

³² Under the terms of MF Ordinance No. 379, of November 13, 2006.

Articles 170, 173, 174, and 179 of CF/88 postulate guidelines pertinent to the observance of the principles of reduction of regional inequalities and favorable treatment to small companies; hypothesis of direct exploitation of economic activities by the State; exercise of the functions of inspection, incentive, and planning by the State, according to the law; dispensation of differentiated legal treatment to micro and small companies, according to the law.

Paragraphs 3 and 7 of Article 195 of CF/88 establish, respectively, a ban on the enjoyment of benefits or tax or credit incentives by legal entities in debt with the social security system; and the exemption from social security contributions for charitable social assistance entities that meet the requirements established by law.

According to **Article 113 of the Transitional Constitutional Provisions Act (ADCT)**, the creation or alteration of mandatory expenditures or revenue waiver must be accompanied by an estimate of its budgetary and financial impact, according to EC 95/2016.

Article 114 of ADCT, the passage of legislative proposals, except for Provisional Measures, which entail an increase in expenditures or revenue waiver, will be suspended for up to twenty days, at the request of one-fifth of the members of the House, in accordance with the rules of procedure, to analyze their compatibility with the New Tax Regime.

Regarding the order provided for in complementary norms, the LRF stands out. In line with the constitutional guidelines, **Article 5, item II of the LRF** establishes that the Annual Budget Law will be accompanied by the statement referred to in paragraph 6 of Article 165 of the CF/88, the measures to compensate for revenue forgone and the increase in mandatory expenditures of a continuous nature.

Regarding incentives or benefits of a tax nature that result in a waiver of federal revenue, **Article 14 of the LRF** presents the conceptual basis for these benefits and establishes that proposals financed on this basis must present an estimate of the budgetary-financial impact in the year in which they are to take effect and in the following two years; and comply with the provisions of the Budget Guidelines Law and at least one of the following conditions:

- "(i) demonstration by the proponent that the waiver was considered in the budget law revenue estimate and that it will not affect the tax result targets foreseen in the proper annex of the Budget Guidelines Law; and
- (ii) be accompanied by compensatory measures, through an increase in revenue, resulting from an increase in rates, expansion of the calculation basis, increase or creation of a tax or contribution.

The institutional feasibility of the normative guidelines set forth in Article 14 of the LRF were outlined by the **Ordinance of the Ministry of Finance No. 453, of August 8, 2013**, which provides for the making of estimates by the Federal Revenue of Brazil (RFB), concerning the impacts on tax collection, derived from provisions that change the legislation of taxes that are part of the revenue managed by the Federal Government. In this context, the making of estimates by other agencies and entities is authorized, but they must be approved by the RFB.

With reference to the Federal Government's credit and financial benefits, which comprise the Federal Government's list of indirect expenditures, the conceptual basis and other guidelines pertaining to these instruments for financing public policies are governed by **Ordinance No. 379 of the Ministry of Finance (MF), of November 13, 2006** - which defines the financial and credit benefits and establishes the funds and programs that must be included in the Statement, as well as their respective calculation methodologies; and by **Ordinance No. 57 of the Ministry of Finance, dated February 27, 2013** - which delimits the concept of opportunity cost of the National Treasury used in the calculation of credit benefits, specifies the regionalization criteria of the financial and credit benefits calculated, and updates the list of funds and programs included in the Statement and their respective calculation methodologies.

3.2.3 - Public Policies Cycle

The approach concerning the cycle of public policies financed by indirect expenditures of the Federal Government presupposes, *a priori*, acuity regarding the constituent elements of the conceptual framework of public policy. Howlett and Ramesh (2013)³³ present the following definition of public policy:

"a set of interrelated decisions taken by a political actor or group of actors, and which concern the selection of objectives and the means necessary to achieve them, within a specific situation in which the target of these decisions would, in principle, be within reach of these actors."

In this context, the conformation of public policies contemplates three fundamental elements, integrated in a broad political and economic system: the actors involved, public and private; the institutions, responsible for the selection of guidelines and definition of objectives,

³³ Howlett and Ramesh (2013)

as well as the decision-making process; and the individual ideas or perceptions about a certain problem of society, with the definition of instruments available to the public sector to solve them.

In general, public policy theory³⁴ states that the public policy cycle consists of five phases or stages, namely: Agenda formation; Policy formulation; Decision making; Implementation; Assessment.

The first stage of the cycle, **agenda setting**, is of utmost importance, as it defines the strategic orientation for public sector action, allows for the identification of priority issues for society, the main problems, and the ideas that can be implemented on a *case-by-case basis*.

In the second and relevant stage of the cycle of public policies, we consider the process of **policy formulation**, which presupposes the ordering of ideas in a technical-normative and propositional framework, for selection at the institutional level and effective conformation for implementation after the decision is made.

The **policy formulation** process includes the following phases: (i) appraisal, with registration of information from different actors, public and private; (ii) dialogue, which allows interaction between actors interested in the formulation process; (iii) the actual formulation of the proposal, after the selection process; and (iv) consolidation, concerning the *feedback* from different actors.

The third stage, **decision making**, is defined³⁵ as follows:

"The choice between policy alternatives that have been generated and their likely effects on the problem at hand (...). It is the most obviously political stage, in that the many potential solutions to a given problem must somehow be reduced to only one or a few elected ones prepared for use. Of course, most of the possible choices will not all be realized, and the decision not to take certain courses of action is part of the selection, as is the definition of the best course.

The fourth stage of the policy cycle confers materiality to government action, through the effective implementation of the policy, based on the parameters defined in the formulation process. Policy implementation is commonly associated with problems and difficulties, *e.g.*: disputes among the various entities and groups, which can generate distortions in the implementation process; lack of resources; influence of public opinion; and influence of actors external to the bureaucratic apparatus.

³⁴ See: Street (2009)

³⁵ Brewer and De Leon *apud*. Howlet and Ramesh, 2013, PP.157.

The last stage of the policy cycle is commonly pointed out as being of utmost relevance, considering that it allows for the assessment of the effectiveness of state intervention. In fact, the assessment gathers elements to perform a detailed diagnosis of the policy, identifying gaps, strengths and possible need for reorientation, which provides conditions to optimize the allocation of resources considered in the *ex-post* assessment of the implementation. According to Howlet and Ramesh (2013)³⁶

"(...) perhaps the greatest benefits of policy assessment are not the direct results it will produce in terms of full findings of success or failure of particular policies per se, but rather the educational dynamics it can stimulate among *policy-makers* and among other actors less directly involved in *policy* issues."

Based on the theoretical precepts of public policies, it is possible to present the list of institutional interactions that currently guide the cycle of public policies financed by indirect expenditures of the Federal Government:

(i) Agenda Formation:

In this stage, which can also be considered as needs assessment or demands conformation, it is possible to identify the interaction between private players - sectorial representatives, organized entities of the civil society, such as employers' associations and councils, workers' and class segments, social control councils and other organizations - that interact with public players - regional governments and representative entities, National Congress and Executive Power - to present and propose solutions to the several problems and demands considered liable to intervention by the State, through the implementation of public policies;

(ii) Policy Formulation:

After the stage of agenda-setting and interaction between public and private actors, the process of shaping public policies funded by indirect expenditures of the Federal Government begins, with a financing base based on credit and financial benefits or tax expenditures. In this context, there is a wide range of institutional players in the public sector that interact to shape policies based on these public financing mechanisms.

In the Legislative Branch, the proposals financed by indirect expenditures are subordinated to the technical bodies for analysis. It is worth mentioning the terms of MF

³⁶ *Op. cit* NR 33.

Ordinance No. 453/2013, which stipulates that the Federal Revenue of Brazil (RFB) must make estimates regarding the impacts on tax collection, derived from devices that change the legislation of taxes that are part of the revenue administered by the Federal Government.

Within the Executive Branch, the various individual instances of the Federal Government's public finance management bodies, in light of their respective regulatory and institutional competencies and attributions, proceed to shape the technical basis of the policy: analysis of the suitability to the strategic orientation of tax policy, legal and budgetary-financial aspects, notably to the requirements of the Tax Responsibility Law, which results in institutional products to guide the formal forwarding of proposals (notes, technical opinions and formal-legislative framework). In this context, policy alternatives are formulated, impact simulations are made, and the pros and cons for each policy alternative are identified. In general, the Congress and the agencies comprising the Executive Branch formulate propositions financed by indirect spending and submit them to the President's Chief of Staff for forwarding, within the legislative process, to the National Congress;

(iii) Decision Making Process:

In the Legislative branch, the propositions financed by indirect spending are subordinated to the technical bodies for analysis and, after the manifestations, are subjected to the subsequent stages of the legislative process. In the Executive Branch sphere, the leaders responsible for the public finance bodies, who oversee implementing the government's strategic orientation, define the policy to be implemented, based on the analyses and technical studies previously carried out, and forward the normative framework to the President's Chief of Staff;

(iv) Implementation and Monitoring:

In the implementation and monitoring stage, it is worth highlighting the organization of sectorial activities to accompany the policies, under the competence of each agency. There is no systematic process at this stage within the Executive Branch. Regarding the calculation of values pertinent to tax expenditures and credit and financial benefits, on an annual basis, the elaboration of the following reports is highlighted:

- a) Statement of Federal Tax Expenditure, presenting detailed information on tax expenditure by budget function, region, taxes and other classifications. The

statement is part of the list of complementary information to the PLOA, sent by September 15 to the National Congress;

- b) Statement of Credit and Financial Benefits, with information per policy and program, segmentation of the form of implementation (implicit and explicit in the OGU) and per policy area of coverage. This statement is also sent to the National Congress to make up the complementary information to the PLOA;
- c) Calculation of the effective value of the Federal Government's tax expenditures, by April of the tax year after the estimates in the PLOA;
- d) Calculation of the effective value of the credit and financial benefits, by March of the tax year after the estimates in the PLOA.
- (v) Assessment:

The assessment process of public policies funded by indirect federal spending, despite the magnitude and representativeness of these policies in the total federal spending, was not subject to a formal, systematized assessment process until mid-2018. There were, in fact, guidelines relevant to the assessment in some norms that instituted public policies structured with this funding base, *e.g.*, considering the provisions of Article 10 of Provisional Measure No. 540, of August 2, 2011, which established a tripartite commission, composed of representatives of workers, entrepreneurs, and the federal executive branch, with the purpose of monitoring and evaluating the payroll tax relief policy. It is worth noting, relevant institutional improvement, from the combination of institutional efforts made in 2018, which provided the institution of the Monitoring and Assessment Committee of Federal Government Subsidies - CMAS, according to Decree No. 9,588, of November 27, 2018. By the way, the foundations were laid for ordering policies subject to annual assessment, in the provisions defined by this technical Committee. Under current legislation, the CMAS was ratified in the normative framework that established the Council for Monitoring and Assessment of Public Policies - CMAP, as per Decree No. 9,834, of June 12, 2019.

3.2.4 - Interaction in the Federal Government's budget process

It is important to reiterate that the Federal Government's indirect expenditures, consisting of tax, credit and financial benefits, are not part of the main part of the Federal Government's General Budget (OGU), subject to the scrutiny of the National Congress. The

statements of tax, credit and financial benefits, prepared in accordance with the terms of the CF/88 are only part of the list of complementary information to the PLOA, for the purpose of quantification and transparency of these expenditures.

From the perspective of relevant public interest, an analysis on a prospective basis suggests that the new institutional framework for evaluating direct expenditures brings together elements to provide technical recommendations in favor of the suppression of guidelines, policies, and/or actions recognized as ineffective in impact assessments validated in the scope of the CMAS and subordinated to the deliberation of the CMAP. However, these procedures require their own regulation, considering that indirect expenditures are policies that are highly resistant to change, already crystallized over time. It is a challenge to regulate and implement the process of feedback of assessments within the scope of the Federal Budget, considering, above all, the analyses of opportunity cost and effectiveness of these policies.

4 - Indirect Expenditures: international experience in selected countries

The public financing structure in several countries is integrated, similarly to Brazil, by direct expenditures, which compose the basis for planning and programmatic execution of the Budget, and by subsidies, considered, in general, as indirect expenditures, which are effected by granting financial and tax aid to groups, activities, sector segments, among others, to provide support to the achievement of economic and social policy objectives, in line with the agenda of strategic guidelines of each country.

In general, the tax management of subsidies in several countries requires the preparation of reports on public policies financed by these mechanisms. It should be noted, however, that there is no uniform approach for unequivocal comparison of this information at the international level, due to the specificities of the tax systems and tax regime of each country.

Considering international experience regarding subsidies, there is a relevant asymmetry in comparison to the framework currently in force in Brazil, considering that international experience and the evolution of specialized literature on the so-called "tax expenditures" does not present, with equal evidence, a theoretical analysis applied to benefits or aids of a credit and financial nature.

It should be noted that this type of subsidies, effectively referred to under this name in specialized literature, has always been associated with government benefits and aid to specific sectors, *e.g.*: subsidies to the agricultural sector in European Federal Government countries, as a relevant component of social welfare policy; and subsidies contemplated under trade policy, with specific rules established by the World Trade Organization - WTO. Thus, this section presents the international experience on transparency, control and assessment of tax expenditures, the subject of detailed reports from various countries, with an extensive approach in the literature specialized in tax matters.

According to the Organization for Economic Cooperation and Development (OECD³⁷), tax expenditures are "provisions, regulations, or practices of the tax system that reduce or postpone revenues for a restricted set of taxpayers in relation to the reference tax system. These expenditures are also called "tax benefits", "tax subsidies", and "tax assistance". These expenditures can be affected by different rules of exception to the reference tax system. By the way, they are considered: (i) deductions: amounts deducted a priori from the reference system (benchmark) to ascertain the tax base; (ii) exemptions: amounts excluded from the tax base, under the law; (iii) rate reduction: refers to normative prescriptions that authorize the use of a reduced tax rate, incident on taxable or taxable transactions; (iv) tax deferral: postponement in the payment of the tax; (v) credits: amounts deducted from the tax liability.

With reference to the method for determining tax expenditures, the following bases are used to measure tax expenditures:

(i) Initial revenue loss/gain, which reflects the amount of revenue that is reduced/increased due to the creation/suppression of a tax expenditure, assuming unchanged taxpayer behavior and the collection of other taxes;

(ii) Final revenue loss/gain, which measures the amount of revenue reduced/increased due to the introduction/suppression of a tax expenditure, assuming changes in taxpayer behavior and the effects on the collection of other taxes, derived from the measure;

(iii) Equivalence of expenditures, which determines the transfer, via direct expenditures, that would be required for the taxpayer's available income, after the deduction of

³⁷ Organisation for Economic Co-operation and Development. 2010. "*Tax Expenditures in OECD Countries*." Paris. Disponível em: < <https://www.oecd.org/gov/budgeting/taxexpendituresinoecdcountries-oecdpublication.htm> > Acesso em 20 de agosto de 2020.

the tax, to be equivalent to that determined after the enjoyment of the tax benefit, under the tax exception regime.

It is worth noting some aspects that make tax expenditures more complex and less advisable when compared to the structure of direct spending. First, most tax expenditures are established by law and are permanent in nature, as opposed to direct spending programs, many of them mandatory, which require annual appropriations in the budget, with scrutiny and authorization for execution. Thus, various tax expenditures validate long-term policies, without limit or review, considering the dynamics of society's priorities and the economic and tax environment.

Another peculiar aspect is tax expenditures, in the form adopted in some countries, refers to the fact that these expenditures are presented decoupled from direct expenditures, which mitigates the result of joint assessments regarding overlaps and/or complementarities. The joint presentation would make it possible to weigh costs and consider offsets.

In addition, it is worth mentioning the complexity commonly associated with the framework outlined for the exceptions to the reference tax rule, which often presupposes a series of legal provisions, regulations, instructions, and other applicable rules, according to the precepts of tax management.

It should also be noted the fact that tax expenditures may counteract the efficiency of resource allocation, under the prism of efficiency and equity, and reduce revenue in relation to what was intended or needed initially. Thus, the opacity of these expenditures hinders the perception of taxpayers, and of society itself, about the tax justice of this modality of government action. In essence, the lack of tax transparency of these expenditures can have an effective cost on the effectiveness of government action.

4.1 - OECD countries

Due to the relevance and continuous use of tax expenditures in several countries, the OECD³⁸³⁹⁴⁰ and the IMF^{41 42} have prepared guidance documents for the tax management of these expenditures, which include a diagnosis of the current situation and a code of best practices, for the purpose of improving transparency, control, *accountability*, and assessment of these expenditures.

It is worth noting the timeliness of the prescriptions drawn up by the OECD in 2004⁴³ for off-budget spending and tax expenditures, considering the proper functioning of the budget:

"The proper functioning of the budget relates to the four functions of the budget:

- 1. the authorization function: that all money spent from the public treasury be subject to legislative authorization;*
- 2. the allocative/distributive function: that the budgetary authorities (executive and legislative branches) be able to compare and trade off all changes in expenditures and revenues;*
- 3. the macro-economic function: that the budgetary authorities (executive and legislative branches) be able to decide on the impact upon the economy of totals and composition of expenditure, revenues and the deficit;*
- 4. the administrative function: that the budgetary authorities (executive and legislative branches) be able to control the cost efficiency of all public service delivery."*

In 2010⁴⁴, the OECD prepared an analytical report on tax expenditures in ten member countries, highlighting some asymmetries, conceptual, methodological, and the very process of calculation, publication, and assessment. Table II summarizes some information on tax expenditures of selected OECD countries.

³⁸ *Op cit*, NR 37.

³⁹ *Fiscal transparency handbook. International Monetary Fund, Fiscal Affairs Department, Washington, DC, 2018. Disponível em: < https://www.elibrary.imf.org/doc/IMF069/24788-9781484331859/24788-781484331859/Other_formats/Source_PDF/24788-9781484348598.pdf> Acesso em 20 de agosto de 2020.*

⁴⁰ OCDE, *Best Practice Guidelines - Off-Budget and Tax Expenditures*, 2004, disponível em: < [http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?doclanguage=en&cote=gov/pgc/sbo\(2004\)6](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?doclanguage=en&cote=gov/pgc/sbo(2004)6)> Accessed August 20, 2020

⁴¹ Code of Good Practices for Fiscal Transparency, IMF, 2007, available at: < <https://www.imf.org/external/np/fad/trans/por/manualp.pdf>> Accessed August 20, 2020.

⁴² *Tax Expenditure Reporting and Its Use in Fiscal Management: A Guide for Developing Economies*, International Monetary Fund. Fiscal Affairs Dept., 2019. Disponível em: < <https://www.imf.org/en/Publications/Fiscal-Affairs-Department-How-To-Notes/Issues/2019/03/27/Tax-Expenditure-Reporting-and-Its-Use-in-Fiscal-Management-A-Guide-for-Developing-Economies-46676>> Acesso em 20 de agosto de 2020.

⁴³ *Op. cit* NR 42.

⁴⁴ *Op. cit*. NR 40.

Table II - Tax Expenditure Report - OECD Countries

Parents	Legal Dimension		Temporal Dimension			Number of Tax Expenditures identified (estimated)	Assessment
	Legal requirement	Budget Integration	Date-first report and information available	Estimation Period	Deadline for tax expenditures		
Germany	Gesetzes zur Forderung der Stabilitat und des Wachstums der Wirtschaft	Grant Report, prepared every two years.	1967(2009)	t-2; t+1	Term of validity	104(71)	Yes Assessment results and level of funding are discussed
Australia	Charter of Budget Honesty Act, 1998	Independent government document with a budget overview.	1997	t-4; t+3	Start and end date	289 (146)	Yes
Austria	Federal Budget Act 2013 (Art. 47)	As an attachment, Report of Grants to compose the Budget.	2004	t-2; t	Term of validity	67(47)	Yes
Belgium	Federal Act on the organization of the budget and accounting of the federal government, 2003	Appendix to the Budget	2001	t-7; t-3	-	251(136)	No
Canada	Constitution Act, 1867	There is no integration to the Budget, only as a document for prior consultation.	1979(1994)	t-7; t	Start date and history	337(216)	Yes
South Korea	National Finance Act and Special Tax Treatment Control Law	Yes	2010(2009)	t-1; t+1	No	30(30)	No
United States	Congressional Budget Act, 1974 (Public Law 93{344)	As part of the annual Budget, but not integrated into the budget process.	1967(1994)	t-2; t+8	Term of validity	167(167)	No
France	Loi de Finances, 1980 (Art. 32)	Appendix to the Budget.	1979(2011)	t-2;t	Start date and history	457(221)	Yes
Netherlands	I Directive		1987(1998)	t-1; t	Term of validity	125(100)	Yes
Italy	Art. 1 del decree legislative 24 settembre 2015, n. 160	Independent governmental document, with no interaction with the budget.	2016(2012)	t; t+2	Term 5 years	338(187)	No
United Kingdom	I Directive	It is not part of the budget process. It is prepared as part of the statistical supplement to the income statement.	2013(2012)	t-4; t	-	424(185)	Yes

Fonte: Assessing Tax Expenditure Reporting in G20 and OECD Economies (2018)

Regarding tax expenditures in the member countries of the Organization for Economic Cooperation and Development - OECD⁴⁵, only Germany and the United States⁴⁶ adopted, as a public policy guideline, the reporting of tax expenditures, since the late sixties, with proper accounting and preparation of reports for parliamentary scrutiny. This procedure was adopted in other countries that in the late 1970s started to identify tax expenditures and report them regularly - Austria, Canada, Spain, and the United Kingdom. Then, throughout the 1980s, Australia, Belgium, Finland, France, Ireland, Italy, the Netherlands, and Portugal began to publish their tax expenditure reports. By 1996, almost all OECD member countries were producing reports on tax expenditures on a regular basis.

In fact, it appears that all the countries mentioned contain specific legislation to guide the institutional arrangement relevant to tax expenditures. By the way, a particularly important aspect refers to the fact that several countries adopt a significant number of tax expenditures - standing out, in this regard, the United Kingdom, Canada and France. This framework cannot be dissociated from a systematic practice of assessments, for the purpose of analyzing the effectiveness of these expenditures and, considering best practices, the related process of feedback within the budget process.

It should also be noted that the transparency of tax expenditures results from the preparation and effective disclosure of tax expenditure reports and other government aid. However, as pointed out by the various codes of good practices applicable to tax expenditures, transparency is not limited to the publication of information. It is important to dimension the procedural steps for authorizing these expenditures, the institutional assessment rites, and the complementation of the guiding standards with balanced budget or revenue rules, and related transparency, *accountability*, and social control mechanisms.

Germany⁴⁷ prepares and publishes the so-called⁴⁸ *Subsidy Report*, an overview of financial support and tax expenditures, which is submitted to the *Bundestag* and the *Bundesrat* in conjunction with the budget proposal. The report is produced every two years and contains information about trends in financial aid and tax benefits for a four-year period. According to

⁴⁵ Vide "Tax Expenditures, Recent Experiences." Organization for Economic Cooperation and Development', Paris, France, 1996.

⁴⁶ The United States has published a list of tax expenditures since 1968, and inclusion in the budget has occurred since 1976, by virtue of a determination in the Congressional Budget Act of 1974.

⁴⁷ Germany was the first country to organize a comprehensive list of tax expenditures. In 1967, biannual reporting requirements on tax and direct subsidies were defined in law.

⁴⁸ Vide, e.g., 27th Subsidy Report 2017-2020, Federal Ministry of Finance, Berlin, November 2019, disponível em: https://www.bundesfinanzministerium.de/Content/EN/Standardartikel/Press_Room/Publications/Brochures/2020-03-03-27subsidy-report.pdf?__blob=publicationFile&v=4 Accessed August 20, 2020.

the guidelines for government subsidies, all modalities are subject to regular assessment, with results achieved, efficiency and transparency. In this context, reviews are presumed in terms of necessity, convenience and effectiveness, as well as compatibility with the Federal Government's tax, economic, social and environmental policy. The objective of the reviews is to identify the potential for reducing subsidies, so that they are correctly targeted, economically viable or to improve the design of these mechanisms.

The Government of Canada's Federal Tax Expenditure Report provides detailed information on⁴⁹ federal tax expenditures for an eight-year period. The document provides information on the conceptual basis and reference tax system, estimates and tax projections of tax expenditures, a detailed description of the essential and constituent elements of each type of expenditure, a cost estimate, and an assessment report on a selected tax expenditure.

In the United States, the estimates of tax expenditures that make up the budget are based on two basic methods: *ex ante* revenue loss and equivalent spending. The purpose of the latter is to create a basis for comparison between (indirect) tax expenditures and direct expenditures, such as transfers recorded in the public budget.

The equivalent spending method was used by the U.S. Treasury for the period 1981 to 2006. This method establishes an information base that makes estimates of tax expenditures comparable with estimates of related direct expenditures. In this sense, the equivalent expenditure method contributes to cost-benefit analyses of the tax expenditures themselves⁵⁰. As of 2007⁵¹, the administration discontinued the equivalent expenditure estimates, on the grounds that the figures were often like those of normal tax expenditures. Moreover, when they differed, the criteria for applying the concepts were often associated with value judgments and, therefore, with little intertemporal consistency among spending items.

In 2010, the US passed the *Government Performance and Results Act (GPRA) Modernization Act (GPRAMA)*⁵², which established guidelines to promote an integrated, cross-

⁴⁹ Ver: *Report on Federal Tax Expenditures Concepts Estimates and Evaluations*, 2018. Disponível em:

https://www.canadiancharitylaw.ca/uploads/Report_on_Federal_Tax_Expenditures_Concepts_Estimates_and_Evaluations_from_Finance_Canada_2018.pdf> Acesso em 20 de agosto de 2020.

⁵⁰ Para maiores detalhes, vide: "*Tax Expenditures: Current Issues and Five-Year Budget Projections for Fiscal Years 1984-1988*". Congress of the United States Congressional Budget Office".

⁵¹ Vide, a propósito, "*Analytical Perspectives, Budget of The United States Government, Fiscal Year 2017*", disponível em: <<https://www.whitehouse.gov/sites/default/files/omb/budget/fy2017/assets/spec.pdf>> Acesso em 22 de agosto de 2020.

⁵² See further details available at: <<http://xml.fido.gov/stratml/references/PL111-532StratML.htm>> Accessed August 22, 2020.

cutting approach to generating results and improving the performance of government action, including tax expenditures⁵³.

The standard stipulates that tax expenditures should be included in the series of actions implemented by government agencies and that contribute to the achievement of cross-cutting goals. This normative framework brings together elements in favor of policy prioritization and in the public choice process, considering the tax pressures inherent in policymaking and public management.

⁵⁴South Korea's experience is commonly referenced, in terms of its transparency and the definition of a tax rule that sets a limit on tax expenditures. In fact, since 2008, the Korean government has adopted a well-defined structure for the tax expenditure process. Thus, after the release of the tax expenditure management plan prepared by the Ministry of Economy and Finance by March 31, the Sector Ministries submit recommendations for tax waivers, including their objectives, expected effects of the policy, revenue estimates by year, and related statistical information. If the estimated cost of the tax revenue program is more than \$30 million, the request is subject to a pre-feasibility assessment by the Ministry of Economy and Finance. Finally, the Ministry of Economy and Finance submits the results of the pre-feasibility assessment with amendment of the tax law to the National Assembly.

In addition, after the pre-feasibility analysis for each new tax expenditure policy, with estimated cost in value above \$30 million, the proposed measure is subject to further analysis, based on five criteria: (i) Policy Relevance; (ii) Cost-Benefit Analysis, addressing potential behavioral changes as a result of tax expenditures, revenue loss, and administrative costs of tax spending; (iii) Net Worth Analysis, estimating potential redistributive and spillover effects of tax spending; (iv) *Analytic Hierarchy Process* (AHP)-based summary analysis; and (v) Policy Recommendations.

France has a significant list of policies financed by tax expenditures. In 2015, 420 items were recorded as part of this type of public spending, 30% of which are tax credits. Regarding the process of evaluating this spending, there is a clear evolution of the guidelines relevant to the improvement of tax expenditures. Thus, in 1980, the government established the assessment of tax expenditures, attached to the budget (*Voies et Moyens Tome*). Since 2001, each budget

⁵³ Ver: *Tax Expenditures: Background and Evaluation Criteria and Questions*, United States Accountability Office, November, 29th, 2012. Disponível em: < <https://www.gao.gov/assets/660/650371.pdf>> Acesso em 22 de agosto de 2020.

⁵⁴ Conforme *Technical Note- Mechanisms and Incentives for the Adoption of Evaluation of Policies and Programs to improve the efficiency of public expenditure*, Banco Mundial, Mimeo, 2018.

program includes an assessment of the associated tax expenditures. From 2009-2013, each new tax expenditure must be evaluated in 3 years. From 2010, some tax expenditures have been given direct expenditure treatment in the accounting system. Since 2014, tax expenditures and tax credit expenditures, as the largest modality of these expenditures, must observe specific annual limit.

An important institutional arrangement adopted in France since 2013 concerns the organization of annual meetings between the budget directorate and line ministers, with a view to holding technical discussions and expert examination of cross-cutting expenditures of each tax expenditure; and since 2014, joint conferences of those responsible for budget and tax administration; and since 2015, specific focus on small tax expenditures and earmarked revenues. This arrangement suggests close coordination between agencies of the Ministry of Finance (Treasury, budget and tax area), with a view to improving policies financed by tax expenditures.

The French tax expenditure report (*Voies et Moyens Tome 2*) includes: description of created and suppressed expenditures; analysis of the top ten expenditures; for each tax expenditure: number of beneficiaries and estimated cost, for the previous, current, and subsequent tax years, and the reference tax structure for each tax. In addition, the annual performance plan establishes that the budget must include an assessment of the tax expenditure associated with each budget program. In addition to these actions, the central government's accounting registry, with a specific focus on tax expenditures, by tax.

4.2 - European Federal Government

In the European Federal Government⁵⁵, most member countries regularly report tax expenditures. However, there are several asymmetries in the calculation and disclosure of these expenditures, which makes the aggregate analysis fragmented and not sufficiently transparent.

The analysis of the economic impact of tax expenditures, within the European Federal Government, presupposes the use of methodological criteria that can attest to the microeconomic efficiency of policies and the adequacy of these guidelines to strategic and social objectives. In addition, another criterion adopted deals with the association of tax

⁵⁵ Ver, a propósito, European Economy, *Tax expenditures in direct taxation in EU Member States, Occasional Papers 207*, Dezembro de 2014. Disponível em: http://ec.europa.eu/economy_finance/publications/occasional_paper/2014/pdf/ocp207_en.pdf Accessed September 20, 2020.

expenditures to the efficient management of tax policy, which may include measures aimed at simplification and stability of the tax system, with clear gains in terms of transparency and accountability.

With reference to the composition of the tax base used to make the tax expenditures, the waivers associated with the personal income tax exceed the corporate income tax, except in the Netherlands and Denmark. In addition, tax expenditures for personal income tax have been higher than those for corporate income tax and VAT, which have been stable or slightly rising.

In the last decade, several European Federal Government countries have used tax expenditures as instruments to promote greater income redistribution, as well as to foster investment and, thus, employment and economic growth. However, in the recent period, there have been pressures to moderate the growth of tax expenditures. This is, by the way, a guideline that is in line with the postulates of tax governance, which, in essence, refers to rules, regulations and procedures that influence the way budget policy is planned, approved, implemented, monitored and evaluated. In this context, tax governance has as main objectives: (i) to promote budget soundness, to mitigate the deficit trend in public accounts, which induces budget imbalances and growth of public debt; (ii) to reduce the cyclical trend of tax policy; and (iii) to improve the efficiency of public spending.

4.3 - Latin America and the Caribbean

In Latin America and the Caribbean, several countries have already adopted systematized practices for determining and publicizing tax expenditures. Considering the codes of good practices of transparency in tax management, developed and disseminated by the IMF and OECD, the Inter-American Centre of Tax Administrations (CIAT) maintains constant technical interaction with the tax administrations of several countries to contribute to the improvement of tax expenditures through the harmonization of statistics and dissemination of the peculiar Code of good practices⁵⁶. The actions developed contribute to the improvement of the reports on these expenditures, which are periodically published and, thus, to the promotion of transparency, social control, and greater effectiveness of this type of governmental action.

⁵⁶ CIAT (2011). Available at: https://www.ciat.org/Biblioteca/DocumentosTécnicos/Ingles/2011_ebook_handbook_tax_expenditure.pdf Accessed August 22, 2020.

A relevant comparative analysis refers to the share of tax expenditures in the GDP of the member countries of the IACAT, subject to the specificities of the respective tax systems. Regarding Latin America and the Caribbean, the financing of public policies through tax expenditures reached an average of approximately 4% of GDP in the period under analysis (Table III).

Table III - Tax expenditures as a % GDP - CIAT member countries

Country	Year of registration (t)	t-1	t-2	t
Argentina	2017	2,6	2,7	3,0
Bolivia	2013	1,0	1,3	1,3
Brazil	2016	4,5	4,5	4,2
Canada	2018	6,2	6,2	6,3
Chile	2018	3,4	3,4	3,0
Colombia	2018	8,2	8,0	8,0
Costa Rica	2016	5,0	4,9	5,3
Ecuador	2017	4,7	4,6	4,7
El Salvador	2017	3,8	3,7	3,5
Spain	2018	3,1	2,7	2,9
USA	2018	7,6	7,6	6,7
France	2018	3,9	4,1	4,2
Guatemala	2016	2,5	2,5	2,3
Honduras	2017	6,6	6,9	6,8
India	2018	2,1	1,8	1,6
Italy	2018	3,2	3,1	3,0
Jamaica	2016	4,4	4,4	3,6
Morocco	2018	3,2	2,7	2,6
Mexico	2018	3,3	3,7	3,7
Nicaragua	2013	4,6	5,0	5,4
Panama	2016	4,2	4,1	3,5
Paraguay	2016	1,5	1,3	1,3
Peru	2017	2,3	2,1	2,2
Portugal	2018	5,9	6,7	6,5
Dominican Republic	2018	6,5	6,1	5,9
Uruguay	2017	6,5	6,4	6,4
Global Average		4,3	4,2	4,2
Average LA and Caribbean (LAC)		4,2	4,2	4,1
North America and selected European countries		5,0	5,1	4,9

Source: CIAT - WP No. 6/2019, pp.32

An examination of the information on tax expenditures in Latin American and Caribbean countries shows that some adopted active tax policies in the triennium, which resulted in a significant share of GDP, higher than the region's average. Colombia stands out in this regard, with a spending level well above the others, around 8% of GDP. In the next group, it is worth mentioning Honduras, with an average tax expenditure of 6.8% of GDP, close to Uruguay, with 6.5%. A third group of countries is made up of Costa Rica, Brazil, Ecuador, Panama, and Jamaica, with expenditures around 4.0-5.0% of GDP in the period. Tax expenditures around 3.0-3.5% of GDP were recorded in Chile, El Salvador, and Mexico. Argentina and Morocco computed average expenditures of 2.7% of GDP. At the minimum level of tax expenditures reported, Paraguay stood out, with 1.3% and Bolivia, 1.2% of GDP.

With reference to the North American countries and selected European countries, the average tax expenditure in the period reached 5.0% of GDP. In this context, the highest level of tax expenditures was registered by the United States, with an average of 7.3%, followed by Canada and Portugal, around 6.2% of GDP. France registered an average of tax expenditures equivalent to 4% of GDP in the period. Spain and Italy maintained expenditures around 3.0% of the GDP. It is worth noting the percentage of tax expenditures in India, around 1.3%, which reveals less use of these financing instruments for the implementation of public policies in the country.

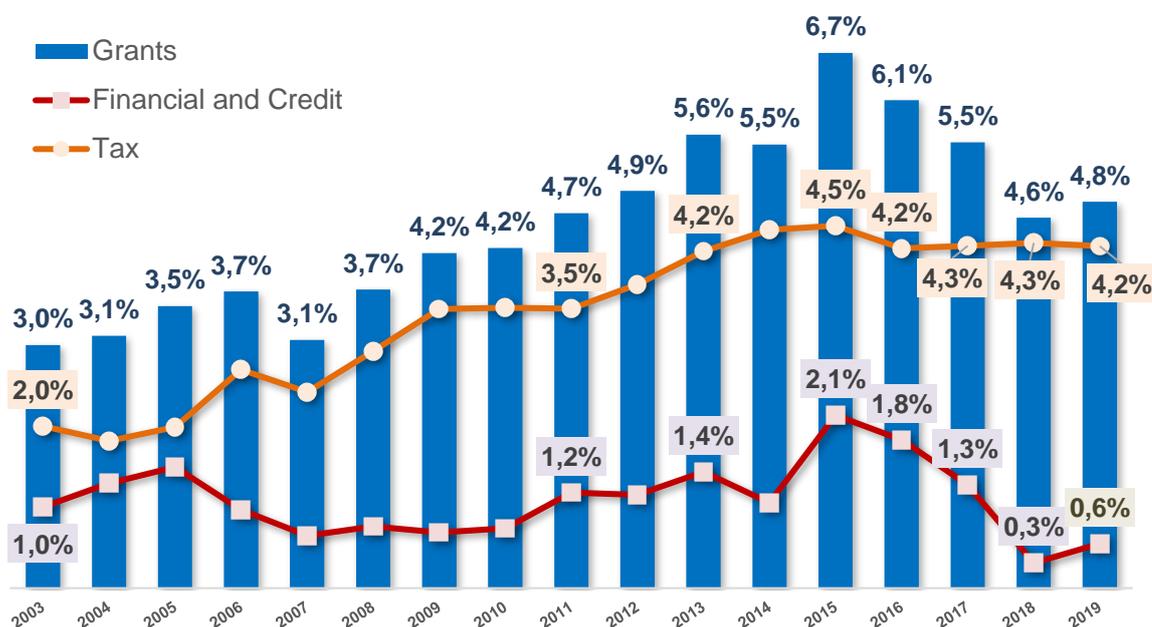
A peculiar feature of the tax expenditure regime in developed countries is the use of exceptions to the income tax reference system. In contrast, in Latin American countries, it is usual, as a dominant instrument of the exceptional tax regime, to use consumption taxes, which make up the relevant base of indirect taxation in these countries.

With reference to the increasing use of tax expenditures, as a differentiated tax policy instrument for the implementation of economic and social policies, it is important to remember that several Latin American countries adopted tax consolidation measures after 2014, which includes reversing this trajectory in the list of tax policy guidelines. In Brazil, it is important to mention the combined efforts to reverse the sharp growth trajectory of tax expenditures, in view of the implementation of a limit for direct spending⁵⁷ and the need to adopt measures to reduce the primary deficit and promote the intertemporal sustainability of the public debt.

⁵⁷ Under EC 19/2016.

5 - Evolution of the Federal Government's indirect expenditures in the period 2003-2019

The Federal Government's indirect spending, as a relevant instrument in the financing structure of public policies implemented by the Federal Government, showed an increasing trajectory in the period from 2003 to 2015⁵⁸. In fact, it is possible to see, from Graph I, the increasing use of these expenditures to guide economic and social policy guidelines. Thus, the list of tax expenditures and credit and financial benefits of the Federal Government was equivalent to 3% of GDP in 2003 and increased considerably in the period, reaching the level of 6.7% of GDP in 2015. In this context, it is worth mentioning the accentuated expansion of tax expenditures, which increased in the period from 2.0% of GDP (in 2003) to 4.5% of GDP (in 2015), while the credit benefits registered 1% of GDP and practically doubled until 2015, with expenditures equivalent to 2.1% of GDP.



Source: 4th Federal Government Grant Budget - ME/SECAP

⁵⁸ The information on the Federal Government's indirect expenditures, segmented into tax expenditures and credit and financial benefits of the Federal Government, are the subject of specific reports prepared and disseminated by the Federal Government under the name of Federal Government Subsidies Budget (OSU), according to the reference presented in chapter I of this work. Various pieces of information contained in these reports provide the basis for the summary records in this section. The 1st, 2nd and 3rd edition are available at: < <https://www.gov.br/fazenda/pt-br/centrais-de-conteudos/publicacoes/orcamento-de-subsidios-da-uniao> > Accessed August 24, 2020. The 4th edition of the OSU, with database updated through 2019, is available at: < <https://www.gov.br/economia/pt-br/acao-a-informacao/participacao-social/conselhos-e-orgaos-colegiados/cmap/publicacoes/subsidios-da-uniao/gastos-com-subsidios/osu/4o-orcamento-de-subsidios-da-uniao-2013-julho-de-2020/view> > Accessed August 22, 2020.

In the subsequent period, starting in 2016, there is a clear reversal of this trajectory, due to the strategic reorientation of tax policy toward this type of spending. Thus, the Federal Government's indirect spending reached 2.8% in 2019, segmented into 4.2% of GDP, pertaining to tax expenditures and 0.6% referenced to credit and financial benefits of the Federal Government.

Concerning the evolution of tax expenditures, it can be observed that the exceptional rules of taxation have conformed policies clearly prioritized in the scope of the government's strategic orientation, worth mentioning: the Industrial, Technological and Foreign Trade Policy - PITCE (launched on March 31, 2004); the Productive Development Policy - PDP⁵⁹ (instituted in 2008); and the Brazil Major Plan (PBM), which established measures to stimulate innovation, national production and increase the competitiveness of Brazilian industry. Under the PBM, emphasis was given to the payroll exemption policy⁶⁰, which authorized the reduction to zero of the employer's social security contribution rate for specific sectors and, in parallel, created the substitutive contribution, levied on sales, to ensure the due reimbursement of losses to the General Social Security Fund. This policy was justified, mainly, as a mechanism to encourage labor formalization and to increase the competitiveness of the Brazilian economy.

In the list of policies implemented in the period in reference, the most expressive tax expenditures were associated with the following exceptional frameworks to the tax system of reference: The National Simplified tax system, the Manaus Free Trade Zone, the Non-Profit Entities - exempt/immune; the Exempt and Non-Taxable Income under the Individual Income Tax (IRPF); Agriculture and Agribusiness; and the Taxable Income Deductions - Health and Education, from the IRPF base.

It is noteworthy that after reaching the level of 4.5% of GDP in 2015, tax expenditures have reversed this trend, but only moderately, which is why they have remained relatively stable, with expenditures equivalent to 4.2% in 2019. This picture suggests clear difficulties to change policies based on tax expenditures, due to the sedimentation of practices and organization of interests in favor of maintaining the actions already implemented, even without

⁵⁹ The PDP contemplated the following tax expenditures, related to the following taxes: CSLL; PIS and Cofins; IOF; IRPJ; and CSLL.

⁶⁰ Provisional Measure No. 540 of August 2, 2011 established the tax exemption of the Employer's Social Security Contribution and contemplated, in its initial formulation, three sectors: Leather and Footwear, Apparel; Information Technology and Communication. After successive changes, this policy became permanent and reached 56 sectors. As of 2014, given the relevance of these expenditures, the policy was revised, reducing the sectors benefited and the related tax expenditures.

the measurement of the return to society. Moreover, the implementation of the new tax regime, as of 2016, established a limit/ceiling⁶¹ for direct spending and, therefore, created conditions for greater pressure to maintain and/or increase tax expenditures, as a complementary way to finance public policies.

With reference to the regional allocation of tax expenditures, as provided in Article 167, paragraph 6 of the CF/88, Table I, referring to the information of the 2018-2019 biennium⁶², shows the effective concentration of these expenditures in the Southeast Region (50% of the total), due to the agglomeration of various business matrices, segments of economic activity and correlated collection in the region. The remaining expenditures are segmented as follows: in the South (15,4%), in the Northeast (13,3%), in the Center-West (10,8%) and in the North (10,8%). The information pertaining to the evolution of these expenditures in the 2018-2019 biennium shows relative stability in the individual share in the total computation of tax expenditures.

Table I - Tax Expenditures by Regions - 2018-2019

	North	Northeast	Midwest	Southeast	South	Total
R\$ billion in 2018	31,7	40,5	33,3	145,1	45,0	295,6
R\$ billion in 2019	33,3	41,0	33,4	153,2	47,6	308,4
Variation R\$ billion	1,5	0,5	0,0	8,1	2,6	12,8
Variation 2019/2018	4,8%	1,3%	0,1%	5,6%	5,7%	4,3%
Participation 2018	10,7%	13,7%	11,3%	49,1%	15,2%	100,0%
Participation 2019	10,8%	13,3%	10,8%	49,7%	15,4%	100,0%

Source: 4th Federal Government Grant Budget - ME/SECAP

Regarding the trajectory of credit and financial benefits, it can be observed that this category of indirect expenditures or subsidies from the Federal Government was also marked by significant growth. In principle, between 2003 and 2009 the total of financial and credit benefits fell from 1.0% to 0.7% of GDP. However, from 2010 on, these expenditures registered a significant growth trajectory, until reaching an amount of expenditures equivalent to 1.8% of the GDP in 2016. In this scenario, the growth rate of implicit subsidies *vis-à-vis* the so-called

⁶¹ See NR 9.

⁶² According to information released in the 4th Federal Government Grant Budget, *op. cit.* NR 9.

explicit subsidies, included in the OGU, stands out. In fact, the total financial benefits (explicit subsidies) went from R\$ 12.7 billion in 2006 to R\$ 35.9 billion in 2011, notably due to the implementation of the My House, My Life Program (MCMV) and the increase in expenditures with the Salary Variations Compensation Fund (FCVS). Under the mode of implicit subsidies, we highlight the expenditures associated with the Federal Government's loans to BNDES, FAT, Constitutional Financing Funds and Fies. Regarding loans to the BNDES, there is a significant expansion of this type of subsidies, which totaled R\$ 15 billion in 2011 and practically doubled in four years, which is why they totaled R\$ 29.1 billion in 2016, equivalent to 0.5% of GDP and 37% of total implicit subsidies.

After 2015, credit and financial benefits showed an inflection of the spending trajectory, reducing from 2.1% in 2015 to 0.3% of GDP in 2018. Nevertheless, in the 2018-2019 biennium, credit and financial benefits showed moderate growth, a movement effectively explained by virtue of accounting and equity adjustments associated with prior years' occurrences. Of note is "an *accounting event that affected the series of FAT credit subsidies in 2018, with repercussions in 2019*⁶³".

The segmentation of credit and financial benefits, by region, in line with the constitutional guideline derived from Article 167, § 6, (table II), shows that this category of spending is associated with policies with a greater spectrum of action in the Northeast Region, responsible for 30% of total spending in 2019, followed by the Southeast Region, with 23.6%. The analysis of the dynamics of this spending in the 2018-19 biennium reveals, however, a loss of participation by the Northeast Region and, conversely, an expansion of spending allocated to the Southeast Region. Similarly, the North Region also recorded a decline in participation in the benefits under consideration, from 18.1% in 2018 to 14.5% in 2019. On the other hand, the South Region recorded an increase in spending in the biennium, with a participation of 8.8% in 2018 and 17.5% in 2019. It is argued that this movement derives from the increase in FAT subsidies, considering that the policies contemplated with this subsidy have greater applicability in the South Region *vis-à-vis* the actions so outlined for other regions of the country.

⁶³ 4th Federal Government Grant Budget, pg. *op. cit.* NR 9.

Table II - Financial and Credit Benefits per Region

	North	Northeast	Midwest	Southeast	South	Total
R\$ billion in 2018	3,9	8,6	2,9	4,4	1,9	21,7
R\$ billion in 2019	5,8	12,0	5,8	9,4	7,0	40,0
Variation R\$ billion	1,9	3,4	2,9	5,1	5,1	18,3
Variation 2019/2018	48,0%	38,9%	101,1%	116,6%	268,1%	84,5%
Participation 2018	18,1%	39,8%	13,2%	20,1%	8,8%	100,0%
Participation 2019	14,5%	30,0%	14,4%	23,6%	17,5%	100,0%

Source and elaboration: SECAP.

The approach concerning the increasing use of indirect expenditures to finance public policies effectively requires the analysis of the regulatory-institutional framework of these instruments *vis-à-vis* indirect expenditures and the macroeconomic policy scenario.

It is important to remember that, as explained in section I of this paper, direct spending has a normative and institutional rite that is already consolidated in the scope of the Federal Government's budgetary-financial process.

Moreover, another relevant feature of the direct spending structure that deserves to be highlighted is the significant list of constitutional and legal obligations for specific purposes, which limits the scope for budget-financial programming within the OGU to meet the countless public policy priorities. Added to this picture is the evolution of the tax outlook in the period, highlighting the fact that the budget process was guided by the establishment of primary surplus targets for the public sector until 2015. However, in late 2014, the Executive Branch forwarded a proposal to Congress to change the primary surplus target for the Central Government - National Treasury, Social Security and Central Bank, initially set by the LDO as a surplus of R\$ 55.3 billion to a deficit of R\$ 119.9 billion. From then on, the budget process began to contemplate primary deficit targets in the Federal Government's accounts (with R\$ 139 billion for 2019 and R\$ 124.1 billion for 2020).

As of 2016, changes in the strategic orientation of tax policy were adopted to address the serious tax imbalance, anchor medium and long-term expectations, and promote economic growth. In addition to the adoption of the new tax regime, reforms were proposed with the intention of adding efforts to improve the business environment and induce the economy to resume the investments necessary to promote economic growth.

It should be noted that, within the scope of technical discussions relevant to the establishment of a ceiling for direct public spending, guidelines were postulated to establish, in a similar manner, a ceiling for indirect spending. However, this proposition, despite being considered relevant, was not considered likely to be implemented.

6 - Governance of the Federal Government's indirect expenditures: previous actions and perspectives for improving governmental action

The regulatory framework and the institutional and procedural structure that govern the cycle of public policies require continuous examination to provide tax management with parameters that contribute to optimize the action of the public sector. In this context, it is necessary to objectively define the unique regulatory competencies and correlated technical procedures to mark out and improve all the stages of the cycle of public policies financed by direct and indirect expenditures of the Federal Government.

As noted in the preceding sections, the comparison of the normative, institutional and procedural parameters of direct spending *vis-à-vis* indirect spending shows significant asymmetry in the parameters of leadership, strategy and control of these expenditures. In fact, the *direct expenditures of the Federal Government* already have a relatively consolidated normative, institutional and procedural rite, through the referenced planning instruments, as well as the implementation, monitoring and assessment structure. It imposes a similar challenge to improve the cycle of public policies financed by direct expenditures of the Federal Government, which presupposes, effectively, the strengthening of the governance bases of these expenditures. The following section explains the meaning of government adopted in this work.

6.1 - Public governance and tax governance

6.1.1 - Public Governance

The concept of public⁶⁴ governance is derived from the conceptual basis used for corporate governance, as initially proposed by Richard Ellis⁶⁵, against the backdrop of the American economy, to outline the operating structure of corporate policy. According to the OECD⁶⁶, corporate governance is defined as *"the rules and practices that govern the relationship between a company's statutory directors and shareholders, as well as stakeholders such as employees and creditors."*

Regarding the conceptual basis of public governance, the OECD⁶⁷ states:

"formal and informal arrangements that determine how public decisions are made and how public actions are carried out, from a perspective of maintaining a country's constitutional value when faced with changing problems and environment."

The World Bank considers public governance as a relevant topic for discussing the role of the state in the development process. In this sense, the concept established in 1992 alludes to public governance as

"the way in which power is exercised in the administration of economic and social resources for development. In this context, governance is considered to have three distinct aspects: (i) the form of the political regime; (ii) the capacity of governments to design, formulate, implement policies and perform functions; and (iii) the process by which authority is exercised in the administration of a country's economic and social resources for development."

After conceptual revision, in 1994, public⁶⁸ governance was defined as:

"predictable, open and objective policymaking (i.e., transparent processes); a bureaucracy imbued with professional ethics; an executive branch of a government accountable for its actions; a strong civil society participating in public affairs; and everyone behaving under the rule of law."

⁶⁴ Public governance was the subject of a technical working group established under the Ministry of Finance and led to the examination of specialized literature on the subject and the realization of several institutional works relevant to the scope of activities of that WG. In line with the scope of this work, which has the primary objective of promoting the effective implementation of technical bases for the governance of the Federal Government's indirect spending in the public sector, the records presented derive from the unequivocal learning provided by the relevant institutional and technical interaction on the subject.

⁶⁵ By the way, see research on corporate governance available at: < <http://www.ifa-asso.com> > Accessed March 20, 2020.

⁶⁶ OECD, *Principles of Corporate Governance*. Available at: < <http://www.oecd.org/corporate/principles-corporate-governance/> > Accessed March 22, 2020.

⁶⁷ OECD (2020) *Works on Public Governance*. Available at: < <http://www.oecd.org/governance/> > Accessed August 22, 2020.

⁶⁸ *Reforming Public Institutions and Strengthening Governance a World Bank Strategy*, setembro, 2000. Disponível em: < <http://www1.worldbank.org/publicsector/civilservice/Strategy.pdf> > Acesso em 22 de agosto de 2020.

The International Monetary Fund (IMF) considers that governance includes all aspects of a country's government, including its economic policies and regulatory structures, as well as compliance with legal guidelines. Based on the diagnosis of the detrimental effects of poor governance, the IMF adopted in 1997 a policy on how to approach economic governance⁶⁹. Thus, the IMF promotes good governance in two main areas: (i) public resource management, through reforms covering public sector institutions; and (ii) the development and maintenance of a transparent and stable economic and regulatory environment conducive to private sector activities. Work on public governance within the IMF includes coordinated action with the World Bank and other organizations.

An important reference in public governance has been established by the *Public Sector Committee (PSC)* of the *International Federation of Accountants (IFAC)*⁷⁰. To contribute to good governance and accountability within the public sector, IFAC has established the principles of public governance, namely: Transparency, Integrity, and Accountability. The governance dimensions thus outlined relate to: Standards of Behavior, Structure, Organizational Processes, Controls, and External Reporting.

In Brazil, it is worth noting the contribution of the Brazilian Court of Audit (TCU)^{71,72,73} in favor of the improvement and dissemination of governance standards in the public administration. By the way, the concept of governance is considered as: "*a set of mechanisms of leadership, strategy and control, put into practice to evaluate, direct and monitor management, with a view to conducting public policy and providing services of interest to society*".

The TCU's approach presupposes a series of actions to consolidate practices related to good public governance. In this context, it is necessary to implement a governance system that explains the form of interaction, organization, and procedures of the various actors within the

69 IMF Policy Paper. *The Role of the Fund in Governance Issues*. Disponível em:

< <https://www.imf.org/en/Publications/Policy-Papers/Issues/2017/08/01/pp080217-the-role-of-the-fund-in-governance-issues-review-of-the-guidance-note> > Acesso em 22 de agosto de 2020.

⁷⁰ IFAC, *Governance in the Public Sector: A Governing Body Perspective, International Public Sector, Study 13*, Agosto de 2001. Disponível em: < <https://www.ifac.org/system/files/publications/files/study-13-governance-in-th.pdf> > Acesso em 30 de agosto de 2020.

⁷¹ See: 10 Steps to Good Governance, TCU, 2014. Available at: < <https://portal.tcu.gov.br/biblioteca-digital/10-passos-para-a-boa-governanca.htm> > Accessed August 30, 2020.

⁷² Basic Governance Reference Applicable to Bodies and Entities of the Public Administration Brasília, 2nd. version, TCU, 2014. Available at: < <https://portal.tcu.gov.br/data/files/84/34/1A/4D/43B0F410E827A0F42A2818A8/2663788.PDF> > Accessed August 30, 2020.

⁷³ Referential for the Evaluation of Governance in Public Policies, TCU, Available at: < https://portal.tcu.gov.br/data/files/61/86/7D/09/8CA1F6107AD96FE6F18818A8/Referencial_avaliacao_governanca_politicas_publicas.PDF > Accessed August 30, 2020.

public administration. It considers, therefore, the administrative structures (instances) and the behavior of the people involved, directly or indirectly, in the assessment, direction, and monitoring of the organization.

The construction of a concept of governance, from its essential, or crucial, constitutive elements can be derived from the records of B. Guy Peters⁷⁴ who points out:

"To build good governance, at least two elements are crucial. The first is a set of **institutions** that can shape the way in which decisions are made and provide some legitimacy for the actions implemented by the public sector. In addition to providing legitimacy, in the best cases these institutions also promote effectiveness and help to accomplish the difficult tasks involved in governance. All public sector institutions are important for good governance, but the public bureaucracy may be especially important. Thus, the second crucial element for good governance is the **people** who work in the public sector. The bureaucracy not only does the work of implementing public policy, it also provides advice to political leaders and provides an institutionalized memory of policy and administration."

Similarly, the importance of government actors substantiates the conceptual basis in other studies and research on governance. In this sense, Cavalcante and Pires (2018) point out:

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"(...) an understanding of governance is consolidated, essentially, as a look at the institutional arrangements (formal and informal) that organize and stabilize the relationships between the different actors involved (...). These arrangements, in turn, can and should be diversified and dynamic, depending on the characteristics of the actors, as well as on the different contexts and legacies in which public organizations and the policies they conduct operate.

From a normative perspective, it is worth mentioning the concept stipulated by Decree No. 9,203 of November 22, 2017, which provides for the governance policy of the direct, autarchic and foundational federal public administration and, in this context, the ratification of the formulation originally proposed by the TCU.

⁷⁴ Public Governance Policy Guide, Presidency of the Republic, 2018. Available at: <https://www.gov.br/casacivil/pt-br/centrais-de-conteudo/downloads/guia-da-politica-de-governanca-publica> Accessed August 30, 2020.

⁷⁵ Cavalcante, P. and Pires, R. Public Governance: Building Capacities for the Effectiveness of Government Action, Technical Note - Number 24, DIEST, IPEA, 2018. Available at: http://repositorio.ipea.gov.br/bitstream/11058/8581/1/NT_24_Diest_Governan%c3%a7a.pdf Accessed September 02, 2020

6.1.2 - Tax Governance

The concept of tax governance includes elements of the concept of public governance, but with strict application to tax management. For the European Federal Government⁷⁶, tax governance, or domestic tax structure, can be defined as the rules, regulations, and procedures that influence how budgetary policy is planned, approved, executed, monitored, and evaluated. This includes in particular: (i) numerical tax rules; (ii) independent tax institutions; and (iii) medium-term budget plans. The objectives of tax governance include: a) achieving greater soundness in budget execution, particularly regarding the trend of deficits and increase in public debt; and b) reducing the cyclicity of tax policy formulation and promoting the improvement of public spending efficiency.

6.2 - Previous institutional actions

The conceptual basis of public governance, besides establishing principles to promote the good management of public resources, brings together elements that suggest a perspective of endogenization of good practices, to optimize the action of the various institutional instances that make up the public sector. It is worth highlighting, *e.g.*, the IFAC definition, which includes: "*Standards of Behavior, Structure, Organizational Processes, Controls and External Reporting*". Similarly, the TCU's understanding of governance alludes to the observance of administrative structures (instances), work processes, instruments (tools, documents), information flow (process), and the behavior of the people involved directly or indirectly in the activities of organizations.

From this point of view, this section aims to present the institutional actions within the Federal Government to improve the Federal Government's indirect spending, whether they derive from the unique competencies of the bodies responsible for managing public finances and/or through effective interaction with *stakeholders* in the public policy cycle, which includes sectorial bodies, sub-national governments, private actors, among others.

It should be noted that "revenue waivers", as a primary source of tax expenditures, and credit and financial benefits, have always been the object of particular attention by the managers of tax policy. In this context, the institutional decisions of those responsible for the handling

⁷⁶ Ver *Fiscal Governance in the EU Member States*, disponível em: < https://ec.europa.eu/info/business-economy-euro/indicators-statistics/economic-databases/fiscal-governance-eu-member-states_en> Acesso em 30 de setembro de 2020

and management of public revenue and expenditure, as well as those responsible for the process of economic policy formulation, stand out. In addition to these, there are the studies and sectorial researches in the scope of the Legislative⁷⁷ Branch⁷⁸In particular, it is worth highlighting the intertemporal actions of external control, which have undertaken continuous institutional efforts to increase transparency, control, *accountability* and, in short, the governance of the Federal Government's indirect spending.

It is worth noting that, within the Ministry of Finance, the Secretariat of Economic Policy (SPE) was given the competencies to calculate the implicit subsidies, and consolidate the statement of credit and financial benefits to be sent to compose the list of complementary information in the PLOA.

It should be noted that, within the scope of the SPE⁷⁹, previous institutional efforts have been made with the aim of consolidating, analyzing and providing transparency to the Federal Government's indirect spending, in the form of tax expenditures and credit and financial benefits of the Federal Government⁸⁰. It is worth noting, in this regard, the preparation of the following works: (i) Budget of Tax Renunciations and Subsidies of the Federal Government - 1999-2000 - SPE (2000); (ii) Budget of Tax Renunciations and Subsidies of the Federal Government - 2001 to 2002- SPE (2004); and (iii) Budget of Tax Renunciations and Subsidies of the Federal Government - 2001 to 2006 SPE (2007). These reports included an analysis of the theoretical framework; methodological aspects of the calculation of renounces and subsidies; analysis of the international experience; analysis of the evolution of these expenditures and related policies; considerations on the cost of renounces and subsidies; analysis by socioeconomic objective and impact of tax renounces and subsidies on public debt.

In 2016, changes were implemented in the powers of individual MF bodies and the Secretariat of Assessment, Planning, Energy and Lottery (SECAP) succeeded SPE in the attributions pertaining to credit and financial benefits. By the way, in the same tax year, SECAP prepared reports like those of SPE, under the name of Federal Subsidies Budget.

Regarding the activity of monitoring and examining institutional actions related to tax expenditures and subsidies of the Federal Government, it is important to highlight the

⁷⁷ See, e.g., Pureza, M.E.M (2011).

⁷⁸ Mendes, G. R. (2012)

⁷⁹ It should be noted that the aforementioned reports were made available on the SPE/MF website, but were suppressed when the content of the institutional page was reformulated.

⁸⁰ As defined in section 3.

continuous technical interaction of the TCU with the public finance management bodies of the Federal Government and with sectoral bodies to improve the transparency, control and quality of these expenditures. In this regard, it is worth mentioning that the TCU has issued several judgments⁸¹ regarding procedural improvement, normative conformation, and institutional actions to improve the cycle of public policies financed by tax waivers and subsidies from the Federal Government.

In this context, it is important to note that the information pertaining to tax waivers and subsidies from the Federal Government are the subject of specific analysis within the scope of the Presidential Accountability Report (PCPR), released annually by the TCU, with emphasis on the evolution, regional per capita allocation, and adequacy to the regulatory framework and tax management. The intertemporal monitoring of tax waivers and subsidies has created conditions to guide proposals for the improvement of this type of public spending and related policies.

Other initiatives relevant to the analysis, discussion and dissemination of information on tax expenditures were carried out in specific events organized by the IDB/IMF with presentations on the structure of these expenditures in Brazil^{82 83}.

The RFB has unique attributions related to the quantification and preparation of the Statement of tax expenditures to compose the complementary information to the PLOA. Thus, it has coordinated technical events with various agencies, with a favorable environment for discussions and improvement of institutional practices of the various agencies that manage public policies financed by tax expenditures⁸⁴ of the Federal Government^{85.86}

⁸¹It is worth mentioning, e.g., TCU Judgments nº 1.205/2014, 2.756/2018 and nº 1.112/2010. Available at: < <https://portal.tcu.gov.br/inicio/>> Accessed September 12, 2020.

⁸² See, by the way, International Seminar on Tax Expenditure (2008), with presentations available at: < <https://www.joserobertoafonso.com.br/gastos-tributarios-no-brasil-receita-federal/>> Accessed September 12, 2020.

⁸³ See program and presentations of the II International Seminar on Tax Expenditure: Reducing Abuse and Improving Effectiveness (2010) at: < <http://www.responsabilidadafiscal.gob.ar/wp-content/uploads/2018/03/Programa-25.pdf>> Accessed September 12, 2020.

⁸⁴ In 2014, the III Tax Spending Workshop (2014) was held, with technical presentations pertinent to the measurement of the Federal Government's tax spending; perspectives on the control and evaluation of tax spending; international overview on the evaluation of results; economic aspects and cost-benefit analyses; and examination of selected policies by the responsible managers, such as the tax spending policies for Medical Expenditures, Manaus Free Trade Zone; Payroll Exemption and Vale Cultura. The presentations were made available at: < <https://receita.economia.gov.br/dados/receitadata/estudos-e-tributarios-e-aduaneiros/gastos-tributarios-trabalhos/iii-workshop-de-gastos-tributarios>> Accessed September 14, 2020.

⁸⁵ In 2009, the I Workshop on Tax Expenditure was held, which provided the opportunity for technical discussions regarding the panorama of tax expenditures in Latin America, the prospects for control, and aspects related to estimates of these expenditures in Brazil. In particular, the experiences of managers of policies financed by tax expenditures of the Federal Government were presented, e.g., the Informatics Law, Simples, and Medicines, among others. The presentations are available at: < <https://receita.economia.gov.br/dados/receitadata/estudos-e-tributarios-e-aduaneiros/gastos-tributarios-trabalhos/i-workshop-de-gastos-tributarios>> Accessed September 12, 2020.

⁸⁶ The II Workshop on Tax Expenditure was held in 2011. In this context, the institutional actions already implemented were addressed, pertinent to the evaluation and control of tax expenditures; to accounting integration and standardization of reports and, in addition, analysis of specific policies guided by these expenditures, such as the Rouanet Law, Prouni, and technological

In 2014, the TCU conducted operational audits⁸⁷ in eleven sectoral ministries (managers of the main public policies financed by tax waivers) and the central bodies of the Federal Executive Branch, with the main objective of "knowing and evaluating the governance structure of tax waivers, encompassing the stages of institution, forecast, monitoring of the granting and execution, assessment and control (...)". Likewise, the audit sought to "evaluate the management capacity of the agencies that manage revenue waivers, by means of risk mapping. The operational audit resulted in the issue of TCU Ruling No. 1,205/2014, which made recommendations to the Civil House of the Presidency of the Republic, the Ministry of Finance and the Ministry of Planning, Budget and Management, among which we highlight:

- "(i) observance of specific law for the issue of normative propositions that contain tax revenue waivers, in light of the provisions of art. 150, § 6 of the Federal Constitution;
- (ii) the acuity in the analysis of proposals for normative acts that institute tax waivers, so that they include a foreseen validity period, in order to guarantee periodic reviews of the tax benefits;
- (iii) creation of monitoring and assessment mechanisms for tax benefits with no management body identified in the instituting legislation, including the schedule and periodicity of the assessments, with the objective of verifying the reach of the purposes initially postulated, as well as the pertinence of attributing the supervision role of these tax expenditures to some agency of the Executive Branch; and
- (iv) orientation of the sectoral ministries responsible for the management of governmental actions financed by tax renounces as to the elaboration of a methodology for the assessment of the efficiency, efficacy and effectiveness of programs or projects that use resources renounced because of tax benefits, including the schedule and periodicity of the assessments, besides the organization of a technical event on governance and tax renounces ⁸⁸".

In mid-2016, a process of institutional reorganization of competencies and regulatory attributions of singular bodies of the Ministry of Finance was authorized⁸⁹. Under the new institutional arrangement, the activities pertaining to tax expenditures and credit and financial benefits, contemplated the following institutional actions:

innovation. The presentations are available at: < <https://receita.economia.gov.br/dados/receitadata/estudos-e-tributarios-e-aduaneiros/gastos-tributarios-trabalhos/ii-workshop-de-gastos-tributarios>> Accessed September 12, 2020.

⁸⁷ As clarified by the TCU: "Operational audit is the process of systematic collection and analysis of information on characteristics, processes and results of a program, activity or organization, based on substantiated criteria, in order to assess the performance of government management, support accountability mechanisms for performance and contribute to improving public management. For more information, see the Operational Audit Manual, available at: <https://portal.tcu.gov.br/controle-externo/normas-e-orientacoes/normas-de-fiscalizacao/auditoria-operacional.htm>. Accessed September 14, 2020.

⁸⁸ See, in this regard event entitled "Seminar Governance and tax renunciations", TCU, 2014. The presentations are available at: < <https://portal.tcu.gov.br/agenda/seminario-governanca-e-renuncias-tributarias.htm>> Accessed September 14, 2020

⁸⁹ Decree No. 9,003, of March 13, 2017, established the reordering of attributions and regimental competencies of the MF's singular bodies. In this context, Sefel succeeded the Secretariat for Economic Monitoring - SEAE, with unique functions related to the evaluation of public spending. Subsequently, Decree No. 9,745, of April 8, 2019, sanctioned a new regimental structure for the newly created Ministry of the Economy. In this context, with the assumption of government planning functions, Sefel was renamed Secretariat of Evaluation, Planning, Energy and Lottery - Secap, with specific functions for the area of Federal Subsidies, notably regarding the evaluation of Federal Government programs related to the granting of financial, credit and tax benefits and the conduct and coordination of studies on Federal Government programs and policies related to the granting of Federal subsidies.

(i) Proposition of the Governance Model of the Federal Government Grants, under the Integrated Modernization Project of the Ministry of Finance - PMINF, in mid-2016. The model originally formulated contemplated a procedural review of institutional actions of unique MF bodies that hold competencies and attributions in the process of formulation, analysis and assessment of the Federal Government's indirect spending, although the postulates for some stages of the cycle have been proposed on a prospective basis, such as monitoring and assessment;

(ii) Preparation and disclosure, on an annual basis, of the Federal Government's Subsidies Budget^{90, 91} - The report reestablishes the previous institutional efforts of the SPE in favor of transparency and publicity to society of consolidated information on the set of tax waivers and credit and financial benefits of the Federal Government;

(iii) Grants Assessment Bulletin - The monthly reports with the assessment of selected public policies, with financing structure based on federal grants, have the objective of providing a synthetic examination of the general panorama of the policies, with the analysis of the essential requirements (purpose, term of validity, target audience, indicators, goals, results, among others) and the verification of gaps in this context; and present technical suggestions for improvement, when appropriate. This is an institutional publication that contributes to provide transparency about the policies outlined in this way and, consequently, contributes to social control and analysis of the effectiveness of⁹² these expenditures;

(iv) Technical contributions to the discussions held by the member institutions of the so-called Government Center⁹³, integrated by the Casa Civil, the Ministry of Planning, the

⁹⁰ The reports pertinent to the 1st, 2nd and 3rd versions of the Federal Government Grant Budget are available at: < <https://www.gov.br/fazenda/pt-br/centrais-de-contenudos/publicacoes/orcamento-de-subsidios-da-uniao>> Accessed September 16, 2020.

⁹¹ *Op. cit.* NR 9.

⁹² In this sense, it is worth noting the TCU's records in the 2019 PCPR, concerning the relevance of these monthly reports, considering the reference to the Monthly Bulletin that deals with the 2nd Evaluation of the basic food basket (available at: < <https://www.gov.br/economia/pt-br/acao-a-informacao/participacao-social/conselhos-e-orgaos-colegiados/cmmap/publicacoes/subsidios-da-uniao/boletim/11-boletim-mensal-sobre-os-subsidios-da-uniao-desoneracao-da-cesta-basica-1/view>>. Access on September 12, 2020. Regarding the findings of the evaluation, concerning the superiority of income transfer programs, under the social and redistributive prism, the TCU adopted these results to recommend to the Federal Executive Branch to analyze the "convenience and opportunity of proposing to the National Congress the review of the basic food basket tax exemption policy (Law 10,925/2004), in view of the possibility of adopting more efficient alternatives for the same purposes, necessarily pondering the circumstances of facing the crisis arising from the Covid-19 pandemic".

⁹³ It should be noted, by the way, that the constitution of the so-called "Government Center" stems from improvements in the inter-institutional organization within the Executive Branch regarding the coordination of actions to optimize the implementation of good practices, greater discipline, acuity, and zeal in the management of public finances.

Ministry of Finance and the Office of the Comptroller General. The so-called Government Center derives from the following conceptual⁹⁴ basis,⁹⁵ :

"bodies of the Government Center are considered to be those that provide direct support to the Chief Executive in the integrated management of the government (*whole-of-government*), including, therefore, those that perform central and transversal governmental functions, such as planning, budgeting, coordination, monitoring and communication of decisions and results of government priorities, even if they are not within the Office of the Chief Executive and do not serve him exclusively."

It is worth mentioning the discussions of the Government Center pertinent to the analysis of the recommendations issued in the scope of Judgment No. 1,205/2014, which established recommendations pertinent to the improvement of institutional actions associated with the analysis of propositions and assessment of policies financed by tax expenditures and credit and financial benefits of the Federal Government;

(v) Technical contributions to the elaboration of the *ex-ante* and *ex post* Assessment Guides, which consist of a detailed procedure to subsidize the cycle of public policies, financed by direct and indirect expenditures of the Federal Government;

(vi) Formulation and presentation to the Government Center, of a proposal for the creation of the Monitoring and Assessment Committee of the Federal Government Grants - CMAS, including the technical basis and normative proposition, for assessment, discussion, and forwarding in the scope of the Federal Government's legislative process. It is important to emphasize that the original version contemplated the conceptualization of subsidies, to fill relevant gaps in the conceptual basis and considering, above all, the fact that the peculiar meaning of these mechanisms for funding public policies, applies, *stricto sensu*, in the context of the reports of the Grant Budget of the Federal Government. After an extensive period of technical discussions, in 2018, the CMAS was approved under Decree No. 9,588, of November 27, 2018, with the primary function of "*monitoring and evaluating, on an ongoing basis, public policies funded by Federal Government grants, especially as to their tax and economic impacts,*

⁹⁴ The Center for Government is derived from the conceptual basis established in the "Benchmark for Evaluating the Governance of the Center for Government," TCU, 2016, available at:

https://portal.tcu.gov.br/data/files/4C/42/24/C2/00C28510D3B260851A2818A8/Referencial%20para%20Avaliao%20da%20Governan%20do%20Centro%20de%20Governo_WEB.pdf Accessed September 12, 2020

⁹⁵ Sobre o Centro de Governo, ver "*The Role of the Center of Government - A Literature Review*", Inter-American Development Bank, Institutions for Development TECHNICAL NOTE No. IDB-TN-581, setembro de 2013. Disponível em: <https://publications.iadb.org/publications/english/document/The-Role-of-the-Center-of-Government-A-Literature-Review.pdf> Acesso em 12 de setembro de 2020

in order to guide state action to generate value to society, in line with good public governance practices."

The normative structure of the CMAS establishes the competencies, composition and operating rules, in the exercise of the attributions of monitoring and assessment of the Federal Government subsidies conferred upon it. The annex of Decree No. 9,588/2018 consigns the individualized specification of tax expenditures, financial and credit benefits. Regarding tax expenditures, it is possible to identify the policy, tax, legislation, managing body responsible and co-responsible; in the specification of credit and financial benefits, with specification of the execution modality (implicit or explicit in the OGU) and reference to Fund/Program or credit operation. Similarly, to tax benefits, the statement presents the legislation, the managing body responsible and co-responsible for these benefits.

The creation of the CMAS represents, in fact, a significant institutional improvement in public finance management. It deals unequivocally with the normative framework and institutional organization aimed at guiding the assessment culture of this type of expenditure and filling an important gap in the conformation of policies financed by indirect expenditures of the Federal Government. Assessment is a highly relevant stage to guide the diagnosis of the bases of public policy, propose solutions to implementation problems and, when allocation inefficiency is proven, guide the review and/or suppression of a given policy. It is a challenge to the public manager to lead a feedback process of the assessments in the scope of the budgetary-financial process of the Federal Government. Another challenge refers to the adoption of an integrated governance model for these expenditures, which includes endogenous procedural rules and inter-institutional actions by the agencies responsible for the cycle of public policies funded by indirect spending of the Federal Government, to sanction a virtuous cycle of improvement of these expenditures, in line with the public interest;

(vii) Formulation and presentation to the Government Center, of a proposal for the creation of the Council for Monitoring and Assessment of Public Policies - CMAP. Under Decree No. 9,834 of June 12, 2019, the CMAP Council is integrated by the CMAS, with the reception of the preceding normative parameters, and the Committee for Monitoring and Assessment of Direct Expenditures - CMAG.

The CMAP has the following objectives: (i) evaluate selected public policies that are financed by direct expenditures or subsidies from the Federal Government; and (ii) monitor the implementation of proposals to change public policies resulting from the assessment, in line

with good governance practices. Regarding the direct expenditures of the Federal Government, it is important to highlight the previous institutional efforts in favor of the assessment of direct expenditures of the Federal Government within the Ministry of Planning, Budget and Management. The CMAP⁹⁶, in the molds previously in force, represented a relevant institutional initiative, in terms of the parameters of economy and review of the resources allocated to certain public policies, *e.g.*, sick pay. These efforts have contributed to the formulation of the normative framework for policy review. Despite the assessments and the institutional framework for reviewing direct spending, the challenge is also to carefully analyze spending derived from budget execution within the OGU and make the necessary adjustments, with a view to optimizing the allocation of public spending and promoting, on an intertemporal basis, the welfare of society.

(viii) Definition and coordination of the annual assessment agenda⁹⁷ in the scope of CMAS and CMAG and the meetings of these collegiate bodies. Institutional actions presuppose the continuous monitoring of the bodies responsible for the assessment process, which requires effective technical interaction to increase the cooperation of the institutions involved, join efforts to define methodological bases, overcome challenges in forming the database, and hold technical discussions to guide progress reports. At the end of the assessment process, the prospect will be of greater technical cohesion between the coordinators of the Committees and the assessment teams, which brings together elements to optimize the referrals in the analysis and approval sessions of the assessments;

(ix) Coordination of the Technical Group (WG) for the development of the Governance Model of the Federal Government Grants, in line with SEAE's original proposal, from 2016, and with the TCU's recommendations, postulated under Judgment No. 2.756/2018⁹⁸. In fact, the list of recommendations, determinations, and acknowledgments in the judgment includes an express determination to the Ministry of Finance to implement an initiative considered

⁹⁶Interministerial Ordinance No. 102 of April 7, 2016, which established the Committee for Monitoring and Evaluation of Federal Public Policies - CMAP. For more details, see standard available at: < https://www.in.gov.br/materia/-/asset_publisher/Kujrw0TZC2Mb/content/id/22668940/do1-2016-04-08-portaria-interministerial-n-102-de-7-de-abril-de-2016-22668893> Accessed September 28, 2020.

⁹⁷ Information pertinent to the public policy evaluation process within the CMAP and the Technical Committees, CMAS and CMAG, is available at: < <https://www.gov.br/economia/pt-br/aceso-a-informacao/participacao-social/conselhos-e-orgaos-colegiados/cmap>> Accessed September 28, 2020.

⁹⁸ TCU Judgment No. 2,756/2018 and other Judgments are available at: < <https://pesquisa.apps.tcu.gov.br/#/>> Accessed September 18, 2020.

relevant to improving the control process and enhancing the referenced public policies, pursuant to item 9.7:

"9.7. determine the Ministry of Finance to forward, in compliance with the provisions of art. 7, item V, and art. 8, § 1, item V, of Law 12.527/2011, within thirty days, an implementation plan for the actions included in the Strategic Corporate Project called "Governance Model of the Federal Government's Tax Expenditures", under the Integrated Modernization Program of the Ministry of Finance (PMINF), including an implementation schedule for each action, with emphasis on the following actions: preparation of a report on the Federal Government's subsidies, containing a detailed analysis of the evolution of the Federal Government's credit and financial benefits and tax expenditures; and proposition of a governance model for the policies financed by credit and financial benefits and/or tax expenditures of the Federal Government, contemplating the stages of formulation, monitoring, management, and assessment". Incidentally, it should be noted that the WG was constituted by CMAS Resolution No. 01/2019, as recorded in the 1st collegiate minutes⁹⁹.

It is important to note other relevant institutional actions that have a positive correlation with the Governance Model of the Federal Government Grants, considering the guidelines established to improve the institutional processes of public management and the standards of public governance. It is worth mentioning, in this regard, Decree No. 9,203, of November 22, 2017, which provides on the governance policy of the direct federal public administration, autonomous and foundational. The aforementioned normative establishes the principles and guidelines of public governance; creates the Inter-ministerial Governance Committee - CIG, integrated by the leaders of the so-called Government Center; provides for the institution of Internal Governance and Integrity Committees, with a view to promoting the adoption of measures and institutional actions aimed at the *"prevention, detection, punishment and remediation of fraud and acts of corruption"*.

In turn, Decree No. 9,191, of November 1, 2017 - which establishes the rules and guidelines for the preparation, drafting, amendment, consolidation and forwarding of proposals for normative acts to the President of the Republic by the Ministers of State -, adduces convergence with the efforts to provide adequate technical parameters to guide the process of formulation of public policies financed by indirect spending. It is worth highlighting, by the way, the express reference to the Federal Government's revenue waivers, in the section that establishes guidelines for the submission and examination of proposals for normative acts. In

⁹⁹ The 1st meeting of the CMAS ratified the scope of action of the collegiate, eminently directed to strengthening the governance and evaluation of public policies funded by federal grants. In this regard, reference is made to the establishment of a technical group to propose a Governance Model for Federal Grants. Available at: < https://www.gov.br/economia/pt-br/aceso-a-informacao/participacao-social/conselhos-e-orgaos-colegiados/cmmap/publicacoes/atas-e-resolucoes-1/atas/cmas/2019_02_28_ata-da-1a-reuniao-do-comite-de-monitoramento> Accessed on September 20, 2020.

this context, Article 32, item V establishes conditions to be observed in proposals that establish a revenue waiver. This normative command provides for the observance of normative guidelines that govern the budgetary-financial process of the Federal Government. There is an express reference to the presentation of a justified exposition pertinent to the compliance with the conditions foreseen in Article 14 of the LRF, in propositions that establish the creation or the extension of tax benefits, which result in revenue waiver. It is also worth noting the importance of the Annex to Decree 9,191/2017, which presents an extensive list of issues to be analyzed in the process of drafting normative acts under the Federal Executive Branch.

In 2018, it is worth mentioning the terms of an assessment audit ¹⁰⁰, conducted by the Office of the Comptroller General at the Ministry of Finance, pertinent to the analysis of government subsidies, highlighting, above all, the 2017 scenario, in which these expenditures reached almost R\$ 355 billion, equivalent to 5.4% of GDP. Thus, in the proposed terms, the report highlights that:

"In the current tax scenario in which the State finds itself, the consequences of the government subsidy policy must be revisited and equated with the other economic objectives, to return to society in the form of increased productivity. In this sense, it is necessary to evaluate the arrangement established by the Government Center for strategic management, risk prevention, as well as for the coordination of policies instrumentalized through these subsidies."

As a result of the analysis, CGU noted that "although some initiatives have been implemented with respect to the governance of financial and credit benefits and tax expenditures, in fact there is no adequate arrangement at the Ministry of Finance from the strategic and coordination standpoints. Furthermore, the CGU made the following observations with a view to improving the policies in question:

"From the standpoint of the coordination dimension, it was observed a lack of articulation among the various secretariats involved in the process within the MF, impacting the development of consistent public policies and aligned to the Government's priorities that may stem from the lack of definition of attributions, competencies, and activities to be performed in this context."

In 2018, the Ministry of Finance and the TCU coordinated institutional actions for the accurate analysis and transparency of tax expenditures and credit and financial benefits, with

¹⁰⁰ Comptroller General - Ministry of Transparency and Comptroller General, EVALUATION REPORT - Executive Secretariat - Ministry of Finance Fiscal Year 2018. Available at:

<https://eaud.cgu.gov.br/relatorios/?colunaOrdenacao=dataPublicacao&direcaoOrdenacao=DESC&tamanhoPagina=15&offset=0&palavraChave=201800733&fixos=#lista> Accessed September 20, 2020.

the organization of a joint technical seminar entitled "Federal Subsidies and Quality of Public Spending"¹⁰¹. In the event, presentations were made by the highest heads of the MF and TCU, as well as most of the heads of individual organs of the MF, which provided conditions for the analysis of indirect spending based on the technical perception of public actors responsible for the decision-making process of these policies.

In 2019, with the approval of the CMAP under the new organizational structure of the Ministry of Economy, the prism of governance and assessment of Federal Government subsidies was ratified through the reception of the regulatory framework of the CMAS under Decree No. 9,834/2019. It is worth mentioning, in this sense, the approval of the subsidy policy assessment agenda by the CMAS for the 2019 tax year, which contemplated, among other policies, the Certification of Charitable Entities of Social Assistance (CEBAS) and the Manaus Free Trade Zone (ZFM).

Another relevant action completed in 2019, refers to the proposition of the Governance Model of Federal Government Grants, which adduces close convergence with the improvement of institutional actions in favor of improving the procedural steps that guide the cycle of public policies financed by indirect expenditures of the Federal Government, for the benefit of society; and moreover, provides effective compliance with the alluded determination of the TCU, under the terms of Judgment No. 2.756/2018.

Based on the Subsidies Governance Model, proposed by the Executive Branch, and considering the diagnosis that this model should contemplate the advances and gaps still existing in the conformation of public policies financed by indirect expenditures of the Federal Government, especially in the stages of formulation and monitoring of public policies financed by tax expenditures, the TCU issued Judgment No. 1,112/2020, which sets forth recommendations to the Ministry of Economy, together with the Civil House of the Presidency of the Republic, in the terms of item 9.3 and sub-items:

“(…) adopt measures for the effective institutionalization of a governance model for the concession and management of tax benefits, covering competencies and procedures for the institution and expansion of tax waivers; improvement of the institutional organization, with the definition of coordination and supervision units, and the identification and definition of the roles of the essential bodies in the stages of formulation, concession, monitoring and assessment; definition of objectives, goals, indicators, term of validity, managing body, quantitative and qualitative information necessary for the processes of monitoring and assessment; systematized

¹⁰¹ The Seminar presentations are available at: < <https://portal.tcu.gov.br/eventos/dialogo-publico/eventos/dialogo-publico-subsidios-da-uniao-e-qualidade-do-gasto-publico.htm> > Accessed September 20, 2020

strategy for the follow-up of policies, including a schedule of periodic reviews; coordination mechanisms between central and sectorial bodies for the management of public policies financed with tax waivers".

The records presented in this section demonstrate the intertemporal actions of public actors and institutions in the country in favor of transparency, control and effectiveness of the Federal Government's indirect spending. In the recent period, they highlight institutional actions aimed at defining a governance model for the cycle of public policies that use this type of public funding. What can be observed is not just an isolated effort by a public agent or a particular agency, but a set of actors and public institutions that, imbued with the responsibility inherent to the exercise of public function, join efforts to contribute to the improvement of public services and the welfare of society. The proposition and implementation of a governance model for the Federal Government's indirect spending takes on particular importance in the current context, marked by tax restrictions on the execution of direct spending, to reverse the deficit and ensure the solidity of the public debt. Without prejudice to the merits of the various policies commonly postulated, based on financing through indirect spending, the records presented in this paper reinforce the need to establish the appropriate governance parameters for such spending, under penalty of continuity of the regulatory and institutional gaps previously mentioned and possible resumption of the pre-2015 trajectory, as presented in section 5.

The trajectory of institutional actions of the Federal Government's indirect expenditures^{as} evidenced here, ratifies Douglas North¹⁰²'s institutionalist analysis¹⁰³. In fact, "institutions matter". In the institutional context of the country, which still shows asymmetries and gaps in the process of management and governance of the expenditures under analysis, it is unequivocal to consider the commitment, zeal and acuity of several institutions in favor of improving work processes, institutional arrangements and actions that make up the cycle of public policies financed by indirect spending of the Federal Government. In this regard, it is worth mentioning notes exposed in the opening speech of the Nobel Prize in Economics by Douglas North (1993)¹⁰⁴:

"Institutions form the incentive structure of a society and the political and economic institutions, in consequence, are the underlying determinant of economic performance. Time as it relates to economic and societal change is the dimension in

¹⁰² Douglas North is a member of the roster of New Institutional Economics (NIE) and was awarded the Nobel Prize in Economics in 1993 for his contributions to research on the role of institutional change in the analysis of economic history.

¹⁰³ NORTH, Douglas. *Institutions, institutional change, and economic performance*. São Paulo: Three Stars, 2018.

¹⁰⁴ See: North, Douglas (1993) "*Economic Performance through Time*". Speech available at: <https://www.nobelprize.org/prizes/economic-sciences/1993/north/lecture/>

which the learning process of human beings shapes the way institutions evolve. That is, the beliefs that individuals, groups, and societies hold which determine choices are a consequence of learning through time - not just the span of an individual's life or of a generation of a society but the learning embodied in individuals, groups, and societies that is cumulative through time and passed on intergenerationally by the culture of a society".

The performance of the economy reveals, to a large extent, the expectations of agents regarding the solidity of economic fundamentals and public sector management in the strategic orientation of macroeconomic policy. In this context, the efficient management of tax policy, with a view to promoting the intertemporal equilibrium of the public debt, brings together elements of the utmost importance in guiding expectations, internalizing productive investments, and engendering conditions to promote sustained growth in the economy. It is necessary, therefore, to combine efforts to improve the efficiency and effectiveness of direct and indirect public spending of the Federal Government.

6.3 - Perspectives for improving the governance and quality of the Federal Government's indirect expenditures

The approach of the preceding section shows the unequivocal advances derived from institutional actions towards improving the standards of transparency, control, *accountability*, and governance of indirect public spending, in the form of tax expenditures and credit and financial benefits of the Federal Government.

In effect, the concatenation of actions and institutional cooperation has led to unequivocal advances in the activities, processes, methods, and institutional order with a view to evaluating federal subsidies, since the creation of the CMAS. It is, therefore, a technical forum of unequivocal relevance to guide technical analysis of policies financed by subsidies and, after subordination to the CMAP, provide elements for social control, considering the results observed.

Regarding the execution of federal expenditures through tax expenditures and credit and financial benefits, it is notorious to recognize society's limited perception of the operationalization of policies and programs thus outlined, *as well as the opportunity cost*

associated with this type of government action, *vis-à-vis* the other expenditures of the General Federal Budget - OGU¹⁰⁵.

Regarding the control of society over public spending, Bugarin and Vieira (2003, p. 180)¹⁰⁶ point out: "Given the cost of engaging in social control, there is a natural tendency for citizens to delegate to the government the control of public administration". Thus, based on the diagnosis of civil society's incentives to participate in the control of public spending, a principal-agent model is formulated to identify how this participation can be stimulated. The formulation contemplates incentives based on the approved budget. Improvements to the model can be made with the inclusion of indirect expenditures of the Federal Government, which are not recorded in the approved Budget, as noted above, and thus gather elements to contribute, also, to the expansion of social control of waivers and subsidies of the Federal Government.

Furthermore, a critical analysis of this type of government action is of utmost importance. Despite being an effective instrument for financing public policies, in Brazil and in other countries, there are some pros and cons associated with the Federal Government's waivers and subsidies. Specifically, Regarding the Federal Government's tax expenditures, Vjekoslav¹⁰⁷ (2006) presents a comparison of positive and negative points. In the first place, the positive aspects would be given by: (i) encouraging private sector participation in social and economic programs where the government plays a relevant role; (ii) promoting decision-making by private initiative rather than decision-making by the public sector; (iii) reducing the need for constant government oversight/supervision of these expenditures. Regarding the negative aspects of tax expenditures, the following are pointed out (i) ineffectiveness: some tax expenditures are countered by domestic or external tax provisions. Many tax expenditures favor one sector over others, so they can alter the relative profitability of projects and weaken instruments with more general application, and the tax system tends to become more regressive; (ii) inequity: tax expenditures modify the burden of taxation, which favors horizontal inequity-

¹⁰⁵ In this sense Andrade(2015) points out that "Despite all the criticism that can be addressed to tax expenditures, they, alongside direct spending and credit and financial benefits, can and should contribute to the achievement of the objectives of the economic order of the Federative Republic of Brazil, but must go through a long and growing debate, especially around its governance and analysis of results, without undervaluing the difficulties in finding data and methodologies suitable for such desideratum. See A Política Econômica e a Governança dos Gastos Tributários Indiretos". August 2015. Available at: <<https://www.conjur.com.br/2015-ago-30/state-economics-policy-governance-of-indirect-tax-expenditures#:~:text=A%20pol%C3%ADtica%20econ%C3%B4mica%20e%20a%20governan%C3%A7a%20dos%20gastos%20tribut%C3%A1rios%20indiretos&text=Gostaria%20de%20iniciar%20a%20minha,de%20pol%C3%ADticas%20econ%C3%B4micas%20dos%20governos>> Acesso em 20 de setembro de 2020.

¹⁰⁶ Bugarin, and Vieira (2003).

¹⁰⁷ Vjekoslav Bratić: *Tax Expenditures: A Theoretical Review Financial Theory and Practice* (2006), p. 123-125. Available at: <http://www.ijf.hr/eng/FTP/2006/2/bratic1.pdf> Accessed September 20, 2020.

people with equal income and costs, pay different taxes; and vertical inequity-where taxpayers with different or unequal economic capabilities are entitled to the same tax benefits; (iii) non-refundable tax expenditure schemes may indiscriminately benefit taxpayers who do not meet all eligibility criteria; (iv) erosion of the tax base, given that there is no limit to the scope of tax rate reductions; (v) tax expenditures represent an open-ended item, which affects revenue forecasts; (vi) increases the complexity of the tax system, increases the cost of compliance, and favors "lobbying" and use of government to create additional revenue; (vii) reduces understanding of the size or extent of government activity; (viii) increases the regressivity of the system and requires special controls.

Added to the analysis of pros and cons of indirect spending, as pointed out, is the need for a thorough review of the institutional and procedural gaps already observed in the conformation of the policies thus outlined:

(a) Lack of uniform normatization for the process of creating public policies funded by federal subsidies. Thus, in recent years, specific policies funded by federal subsidies have been implemented without observing, for example, the conformation in programs and actions, and without the organization of a logic model, which would provide the appropriate standards for monitoring and assessment;

(b) Several policies were instituted without the essential building blocks to guide their implementation, *i.e.*, to enable adequate monitoring and assessment parameters, such as: objectives, targets, indicators, effective terms, and the absence of a management body for the policy financed by Federal Grants, despite occasional initiatives, limited to annual validity, established by some LDO;

(c) Gap regarding the lack of transparency in some stages of the cycle of policies financed by Federal Government subsidies, such as agenda setting, formulation, decision making, and assessment;

(d) Regulatory omission regarding the assessment of results and possible suppression of policies with inefficient allocation of public resources;

(e) Diffuse character regarding the identification of some beneficiaries of public policies;

(f) Weak institutionality in the performance of central and sectorial agencies in favor of normative, institutional and procedural conformation of public policies financed by Federal Grants; and

- (g) No management of tax risks associated with these policies.

As an illustration of the opacity of these expenditures, it is appropriate to mention the considerations of Araújo Jr. (2005)¹⁰⁸, pertinent to the questions that would be lawful of subordination to public managers by taxpayers who, effectively, conform the bases for financing these policies:

"(...) some questions that in other countries governments are obliged to periodically answer to the population are the following: (a) are these programs fulfilling their original objectives? (b) are the subsidies indispensable? (c) are the other governmental actions coherent with these programs? (d) in conflicting situations, what measures are being taken to overcome them? (e) do these programs generate imbalances in other segments of the economy? (f) What measures are being taken in this regard? (g) what is the impact of these programs on the country's tax burden"?

The questions formulated above should be the object of careful analysis, for the proper feedback to society on the pattern of indirect spending and decisions regarding the strategic orientation of economic and social policy. Considering these and other relevant issues, to improve the policies and programs of the Federal Government financed by indirect expenditures of the Federal Government, and to provide the due parameters of transparency, control, *accountability*, necessary for the social control of these expenditures, we consider, under the technical prism of convenience and opportunity, it is our duty to make the following propositions:

(i) **Issue of a specific law to guide the cycle of public policies funded by federal subsidies** - As observed, there is a strong asymmetry between the normative and procedural parameterization of direct spending *vis-à-vis* the indirect spending of the Federal Government. The normative and procedural framework that guides direct spending is relatively consolidated, with clear rules to guide the multi-year actions and the annual budget, highlighting the scrutiny of the National Congress to elect public policy priorities to meet society's demands. There is no similar framework for the Federal Government's indirect spending. It is necessary, therefore, to issue a general rule to define the essential and indispensable requirements for this type of Federal Government spending, *e.g.*:

- a) definition of the conceptual basis of the subsidy modalities;

¹⁰⁸ Araújo Jr. J. T. Renúncias Fiscais e Qualidade do Gasto Público. Valor Econômico, 16/06/2005. Available at: <http://www.ecostrat.net/files/Renuncias_Fiscais_e_Qualidade_do_Gasto_Publico.pdf> Accessed September 02, 2020.

b) general rules pertinent to the shaping of policies and programs from a logic model, which will provide adequate standards for monitoring and assessment;

c) obligatory normative registration as to: objective(s), goal(s), period of validity, indicator(s), target public; managing body; among others, considered relevant for the purposes of transparency and control;

d) definition of the parameters of governance of the Federal Government Grants, with provisions to ground the cycle of public policies and the detailed definition of institutional actions that should guide each stage;

e) guidelines pertinent to the preparation and disclosure of the Federal Grant Budget, as well as the monthly assessment bulletins, aiming at providing institutional guidance, on an intertemporal basis, in favor of transparency and evolution of these expenditures;

f) definition of attributions and competences of central and sectorial organs in the conformation of policies financed by Federal Government Grants;

g) parameterization of the monitoring dynamics;

h) guidelines to guide the assessment, *ex ante* and *ex post*, with express reference to the CMAS, to ensure an intertemporal basis for the assessment process of *these expenditures*;

i) obligations and counterpart of the grant recipients;

j) sanctions for non-compliance with the rule by the beneficiaries;

k) definition of control rules; and *accountability of* public managers responsible for the decision-making process of policies financed by indirect expenditures of the Federal Government, with guidelines pertinent to accountability at a later stage after exercising the public function; rules for the suppression of policies, if the allocative inefficiency of resources is attested in the assessment process;

(ii) Annual Federal Government Grants Budget - To define in a norm the preparation of the Federal Government Grants Budget, on an annual basis, to ensure the continuity of efforts towards transparency and social control of these expenditures, as well as the equalization of rites and procedures already adopted for the direct expenditures of the Federal Government;

(iii) Implementation of the Governance Model of Federal Government Grants - The institutional efforts ratified in the Government Center allowed the elaboration of a model, on bases considered likely to be implemented within the Executive Branch. In this context, the definition of leadership, strategy and control parameters for policies financed by Federal Government Grants must be effectively implemented, with a view to improving work

processes, the pattern of intra and inter-institutional relationships on grants, and making the decision-making process more transparent;

(iv) Alteration of the National Tax Code (CTN) - tax secrecy rule - To join efforts in favor of the approval of Complementary Law Project No. 280/2016, authored by the Executive Branch, which amends Law No. 5172, of October 25, 1966 (National Tax Code), with a view to excluding the disclosure of information pertaining to incentives or benefits of a tax nature, the beneficiary of which is a legal entity from the field of prohibitions provided for in Article 198. This is a measure eminently associated with the transparency of tax expenditures. It would be advisable to define similar guidelines to provide social control and transparency as to the beneficiaries of credit and financial subsidies from the Federal Government. The complete availability of information pertinent to these expenditures constitutes a premise to ground the assessment process and, thus, the due basis for the performance of result and impact analyses of these policies, to be disseminated and disclosed to society;

(v) Alteration of the Law of Tax Responsibility ¹⁰⁹- Evaluate the convenience and opportunity of altering Article 14 of the LRF, to contemplate the inclusion of performance and assessment goals in any propositions that create revenue waiver, including the possibility of extinction of the benefit, in the event of non-compliance with the stipulated rules;

(vi) Accurate analysis of the Federal Government's indirect spending (Subsidies) under the Tax Reform proposals - The complexity of the current tax system is commonly pointed out as a motivation by taxpayers for inclusion in some exceptional tax regime, to mitigate the burden of the tax system. Thus, the reorganization of the current system should consider the institutional framework of the waivers in place, and the cost of this system for tax administration and society;

(vii) Creation of a consultative forum of experts in tax matters, integrated by representatives of the government, academia and civil society, with the objective of creating a favorable environment for technical discussions, dissemination of technical information and construction of plural dialogue on indirect spending or subsidies of the Federal Government; analysis of tax expenditures from the perspective of efficiency, equity and regional, sectorial and social policy objectives. Incentive to states and municipalities to provide greater

¹⁰⁹ Proposition presented by Lima, A.N. Fiscal Renunciations of the Federal Government, Legislative Consulting of the House of Representatives, February 2017. Pg. 30.

transparency, analysis of the efficiency and effectiveness of these policies and discourage the typical practices of tax war;

(viii) Creation of an expert forum for permanent discussion of the Federal Government's Credit and Financial Subsidies, of an advisory nature, integrated by representatives of the government, academia, and civil society, with the objective of creating a favorable environment for technical discussions, the dissemination of technical information, and the construction of a plural dialogue on public policies based on this type of public funding;

(ix) Methodological harmonization - make efforts already underway to build a minimum benchmark of methodological parameters for the Federal Government's indirect expenditures;

(x) Discussion of the definition of a limit/ceiling for the Federal Government's indirect expenditures - under the perspective of an adverse tax scenario, due to the recent scenario, it is licit to consider the adoption of rules like the direct expenditures, to ensure the public sector's firm intention to implement good governance practices and promote the allocative efficiency of these expenditures; and

(xi) Communication and coordination - strengthening institutional communication channels to society about public policies funded by indirect expenditures of the Federal Government, with broad publicity of policies and assessments carried out within the scope of the CMAS.

7 - Final considerations

In this paper, we address the structure of financing public policies of the Federal Government and the related legal, procedural and institutional framework. Indeed, it was demonstrated the coexistence of a dual system consisting of direct expenditures and indirect expenditures of the Federal Government.

The analysis of the norms and institutional arrangements that guide the budgetary-financial process of the Federal Government's direct expenditures, with appropriations assigned in the OGU to provide the programmatic action of public policies, revealed the existence of a relatively consolidated institutional order, which does not preclude the implementation of improvements, according to assessments by those responsible for these expenditures.

With reference to the normative-institutional framework of the federal government's indirect expenditures, consisting of tax expenditures, credit and financial benefits, it was observed that the normative order presents gaps that require institutional efforts for correct improvement. These are, in fact, gaps related to the absence of uniform orientation for the formulation of policies guided by these modalities of public funding. It is worth mentioning, *e.g.*, normative asymmetries regarding the constitutive and essential elements that should guide these norms, such as: objective(s), goal(s), deadline(s), target audience, beneficiary(ies), and term of validity.

Another relevant aspect refers to the conformation of the cycle of public policies financed by tax expenditures and credit and financial benefits of the Federal Government, due to evident asymmetries observed in the stages that make up the cycle of public policies thus outlined. To improve transparency, control, *accountability* and zeal in the public management of these expenditures, it is necessary to review the institutional roles of the Government Center bodies, the inter-institutional interactions, the relationship with public and private actors and, thus, the procedural rites to guide public policies financed by these expenditures.

It is important to register that a relevant source of improvement in indirect expenditures is primarily referred to the way these expenditures interact within the Federal Government's budget process. In fact, it is notorious to recognize that there are relevant institutional efforts by the public sector to quantify and publicize the unique type of indirect public spending. However, the information on these expenditures makes up the list of complementary information to the Annual Budget Law and are not subject to discussion, analysis and scrutiny by the National Congress.

The analysis of international experience in the execution of indirect expenditures revealed relevant lessons. It is worth mentioning the experience of Korea, which presents an accurate procedural rite and defines limits to guide the implementation of public policies through tax expenditures; the institutional guidelines of the United States, with the adoption of an analysis of equivalence of direct and indirect spending, as well as a legal framework in favor of an integrated and cross-cutting approach to public sector action, aimed at generating results and improving the performance of government action, including tax expenditures; and France, through the adoption of an institutional arrangement consisting of actors responsible for the organization of public spending and revenues, which brings together elements to optimize the shaping of public policies and improve government action. A similar effort is required to

analyze the international experience in the use of credit and financial benefits to guide the implementation of public policies.

Considering the records presented in this work, it is licit to reiterate that the use of indirect spending, in the form of tax expenditures and credit and financial benefits of the Federal Government, as a complementary modality to the conventional modality of direct spending to finance public policies, requires similar acuity and zeal on the part of the public manager. Thus, the procedural and institutional gaps in the management of these expenditures, recorded here, were intended primarily to contribute to the improvement of public sector action and advocate the equalization of normative, institutional and procedural rites already adopted for direct spending in the process of shaping the cycle of public policies of the Federal Government.

Regarding the parameters for public governance of indirect spending, the records exposed in this work reveal major challenges to the action of public managers. In this context, the gaps identified in the formation of public policies financed by indirect spending of the Federal Government suggest the need for a system of governance to provide the policies thus outlined with appropriate standards of strategic direction, leadership and control for the benefit of society. The governance system should explain how the various actors are organized, interact, and proceed to conform the cycle of public policies financed by indirect expenditures of the Federal Government. It contemplates, therefore, the proper organization of administrative structures (instances), work processes, instruments (tools, documents), information flow (processes), and behavioral aspects of the agents involved, directly or indirectly, in the assessment, direction, and monitoring of the organization.

Based on the promotion of adequate governance standards for the Federal Government's indirect expenditures, the following guidelines were postulated as improvement of these policies: (i) Issue of a specific law to guide the cycle of public policies financed by Federal Government Grants; (ii) Normative definition for the preparation of the Federal Government Grant Budget; (iii) Implementation of the Federal Government Grant Governance Model; (iv) amendment of the CTN - tax secrecy rule; (v) amendment of the Tax Responsibility Law to contemplate the inclusion of performance and assessment goals in any propositions that create revenue waiver, including the possibility of extinction of the benefit, in the event of non-compliance with the stipulated rules; (vi) Analysis of Federal Government Grants within the scope of Tax Reform proposals; (vii) Creation of a forum of experts in tax matters; (viii) Creation of a forum of experts for permanent discussion of the Federal Government's Credit

and Financial Subsidies; (ix) Harmonization of methodologies with Latin American countries; (x) Discussion of the definition of a limit/ceiling for the Federal Government's indirect expenditures; (xi) Strengthening of institutional communication channels to society on public policies financed by the Federal Government's indirect expenditures, with ample publicity of policies and assessments carried out within the scope of the CMAS.

Given the current scenario, marked by extensive discussion on improving public sector productivity, it is fair to say that the rationalization and improvement of indirect spending represent a major challenge and opportunity for federal public management. In this sense, additional studies and research on the subject can unequivocally contribute to the pre-existing institutional efforts, with a view to improving the various parameters that underlie the policies financed by indirect spending of the Federal Government.

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